

**ORDINANCE NO. 34-2017**

**INTRODUCED BY: MAYOR ANN MARIE DONEGAN**

**AN ORDINANCE UPDATING AND ADOPTING NEW CHAPTER 208, CODE OF ETHICS, OF THE CODIFIED ORDINANCES OF THE CITY OF OLMSTED FALLS AND DECLARING AN EMERGENCY.**

**WHEREAS**, Chapter 208 of the Codified Ordinances of the city, "Code of Ethics," was initially adopted in 1970 and has not been updated; and

**WHEREAS**, responsible and good government requires that the Code of Ethics provisions that shall apply to city operations and officials and employees is in need of updating to be consistent with state law and to further provide specific guidance to elected officials, members of Boards and Commissions, and all city employees, so that the objectives of always keeping the best interest of the public in mind in all daily activities be and remain the hallmark of public service; and

**WHEREAS**, a new updated code of ethics chapter is appropriately implemented to provide such guidance for city operations and employees. Now therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OLMSTED FALLS, CUYAHOGA COUNTY, STATE OF OHIO, THAT:**

**SECTION 1.** That new Chapter 208, Code of Ethics, of Part Two, Administration Code, of the Codified Ordinances of the City of Olmsted Falls is hereby adopted in full as shown on Exhibit "A" attached hereto and incorporated herein by reference as if fully rewritten.

**SECTION 2.** That prior Chapter 208 of the codified ordinances is hereby repealed and that all prior legislation inconsistent herewith is hereby repealed to the extent the same would be in conflict with any provision contained in new Chapter 208, Code of Ethics of the Codified Ordinances.

**SECTION 3.** The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

**SECTION 4.** This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City for the reason that it is imperative to update the Code of Ethics for the City to ensure its daily operations comply with applicable rules and regulations for the best interest of the public and operations of city business.

This Ordinance shall therefore take effect immediately upon passage by the affirmative vote of not less than five (5) members elected to Council and signature by the Mayor.

\_\_\_\_\_  
*Linda Garrity, President of Council*

PASSED: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_  
*Ann Marie Donegan, Mayor* \_\_\_\_\_  
*Date*

APPROVED AS TO FORM: \_\_\_\_\_  
*Gregory M. Sponseller, Law Director*

ATTEST: \_\_\_\_\_  
*Angela Mancini, Clerk of Council*

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

	Yea	Nay
Garrity	_____	_____
Haviland	_____	_____
Sculac	_____	_____
Gorski	_____	_____
Stibich	_____	_____
Duncan	_____	_____
Miller	_____	_____

CHAPTER 208  
Code of Ethics

208.01	Declaration of Policy	208.10	Future Employment
208.02	Definitions	208.11	Discrimination
208.03	Training	208.12	Partisan Political Activity by Classified Civil Service Employees
208.04	Use and Misuse of City Resources	208.13	Board of Ethics
208.05	Use and Misuse of Official Position	208.99	Penalty
208.06	Conflict of Interest		
208.07	Nepotism		
208.08	Gifts		
208.09	Financial Disclosure		

CROSS REFERENCES

Code of Ethics – see CHTR. 5.03(k)

Ethics and conflict of interest re investment policy

- see ADM. 234.09(n)

Unlawful interest in a public contract – see GEN. OFF. 606.17

Soliciting or receiving improper compensation see GEN. OFF.  
606.18

Dereliction of duty – see GEN. OFF. 606.19

Interfering with civil rights – see GEN. OFF. 606.20

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208.01        **DECLARATION OF POLICY.**

Pursuant to City Charter Section 5.03(k), Council hereby adopts this Code of Ethics for all appointed and elected officials, members of city boards and commissions, and employees of the City.

The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions of policy be made in proper channels of governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a Code of Ethics for all officials and employees, whether elected or appointed, paid or unpaid. The purpose of this Code of Ethics is to establish 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.

The provisions and purposes of this Code of Ethics and such other relevant rules and regulations that may be established, including state ethics laws found in Chapters 102 and 2921 of the Revised Code, are hereby declared to be in the best interests of the City. The obligations and prohibitions in this Chapter shall supplement and be consistent with any and all Federal or State, rules, regulations, procedures, ordinances, and codes governing ethics, professional conduct, or conflicts of interest, and is not intended to replace, override, or otherwise pre-empt any ethical requirement under general law.

208.02 DEFINITIONS

For the purposes of this chapter, the following definitions shall apply unless otherwise provided in the Code:

- A. "Appointing Authority" shall mean the City officer, director, commission, board, or body having the power of appointment to, or removal from, positions in any office, department, commission, board, or other authority of the City.
- B. "Board Member" shall include members of any board, agency, commission, or authority as is or may hereafter be established by or pursuant to the Charter or City Code who are appointed or confirmed by elected officials or city officers or directors.
- C. "Business Associate" shall mean any individual, company, or organization with which an individual is acting together to pursue a common business purpose, including but not limited to, partners in a partnership, co-owners of a business, an outside employer, or co-members of a Limited Liability Corporation.
- D. "Contractor" shall mean any person or entity that is a party to an Agreement with the City.
- E. "Elected Official" shall include any person holding elective office specified in, or established pursuant to, the Charter.
- F. "Employee" shall mean any employee of the City including, but not limited to, any person employed, full or part time in a temporary or permanent capacity, and any appointee to a city board or commission.
- G. "Gift" includes any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having greater than de minimis monetary value including, but not limited to, cash, food and drink, travel, or lodging.
- H. "Interest" shall mean a direct financial or material benefit, but does not include any benefit arising from the provision or receipt of any services generally available to lawful class of residents or taxpayers of the City. An individual is deemed to have an interest in any private organization when he or she, his or her spouse, or a member of his or her household, is an owner, partner, member, director, officer, employee, or owns or controls more than 5% of an organization's outstanding stock; provided however, that an individual appointed or otherwise authorized to serve on a private organization, and who solely acts on behalf of the city in his or her capacity for the private organization, shall not be deemed to have an interest in such private organization.
- I. "Presumption of Influence" shall mean a rebuttable presumption that a gift made to an elected official, employee, or board member constitutes a substantial and improper influence in violation of this chapter. Any person may proffer evidence to rebut a presumption of influence.

- J. "Relative" shall mean an individual's spouse, domestic partner, parent, grandparent, step-parent, sibling, step-sibling, sibling's spouse, child, grandchild, step-child, uncle, aunt, nephew, niece, first cousin, or household member, and persons having any of these relationships to the spouse or domestic partner of said individual.

#### 208.03 TRAINING.

- A. Every elected official, employee, and board member shall complete an ethics training program.
- B. Upon successful completion of any ethics training program, elected officials, employees, and board members shall acknowledge, electronically or in writing, that they have read, understood, and agree to abide by the city ethics policy, including the provisions of this Chapter, Ohio Revised Code Chapter 102 and Ohio Revised Code Sections 2921.42 and 2921.43.

#### 208.04 USE AND MISUSE OF CITY RESOURCES.

- A. "City resources" include, but are not limited to city personnel, money, procurement/credit cards, vehicles, equipment, materials, supplies, or other property.
- B. Printing, mailing, or electronic communications of political material or conducting non-city business using city resources is prohibited.
- C. No elected official, employee, or board or commission member shall use or permit the use of city resources for personal or private purposes unless the use of city resources is de minimis or authorized by law or city policy, or the use of city resources is provided as part of his or her official compensation.

#### 208.05 USE AND MISUSE OF OFFICIAL POSITION.

- A. No elected official, employee, or board or commission member shall knowingly use his or her official position or official powers and duties to secure a financial or material benefit, or promise of a financial or material benefit, for himself or herself, a relative, or any private organization in which he or she has an interest.
- B. No elected official, employee, or board or commission member shall request without offering just compensation, require or coerce a subordinate employee to perform any task unreasonably outside the scope of his or her city employment that does not further a city interest, including the performance of any clerical or other work on behalf of the individual, his or her family, business, social, church, or fraternal interest that does not further a city interest, or the purchase of goods or services for personal, business, or political purposes. Excessive requests by a supervisor to perform tasks unreasonably outside the scope of a subordinate's city employment may constitute a violation of this Section, regardless of whether just compensation is offered.

- C. No elected official, employee, or board or commission member shall sell or agree to sell, either directly or indirectly through an entity in which he or she holds an interest, goods or services to the city, except through the city's competitive bidding process consistent with Ohio Revised Code Section.
- D. No elected official, employee, or board or commission member shall violate the prohibitions applicable to Ohio cities regarding public contracts pursuant to Ohio Revised Code Chapter 2921, and any public contracts awarded in violation of Ohio Revised Code Chapter 2921 shall be void and unenforceable.
- E. No elected official, employee, or board or commission member shall knowingly misrepresent his or her personal opinion to be the official position of the city. This paragraph shall not apply to statements of elected officials made in the course of fulfilling the responsibilities of, or running for, office.
- F. No elected official, employee or board or commission member, shall draw a per diem or expense monies from the city to attend a seminar, convention, or conference and then fail to attend the seminar, convention, or conference without acquiring prior approval from a direct supervisor or refunding the pro-rata unused per diem or expense monies to the city.
- G. No elected official, employee, or board or commission member shall knowingly suppress any public record.
- H. No elected official, employee, or board or commission member shall:
  - 1. Abuse his or her authority to compel a subordinate employee to endure or participate in sexual conduct; or
  - 2. Require or coerce a subordinate employee to accept sexual harassment or unwelcome sexual advances as a condition of employment, equal treatment, approval, or advancement.

208.06 CONFLICTS OF INTEREST

- A. Whenever a matter involving the exercise of discretion comes before an elected official, employee, or board or commission member, either individually or as a member of a body, and the individual knows or has reason to know the disposition of the matter could result in direct financial or material benefit to himself or herself, a relative, business associate, or any private organization in which he or she has an interest, the individual shall disclose the nature of the interest to the public in an open meeting or in writing to the Mayor or Law Director, and shall recuse themselves as required by paragraph (C) and the Ohio Revised Code.
- B. The disclosure required in paragraph (A) shall be made when the matter requiring disclosure first comes before the individual or when the individual first acquires knowledge of the interest requiring disclosure.

- C. No elected official, employee, or board or commission member may participate in any decision or take any official action with respect to any matter involving the exercise of discretion, including discussing the matter and voting on it, when he or she knows or has reason to know that the action could confer a direct financial or material benefit on himself or herself, a relative, or any private organization in which he or she has an interest.
- D. No elected official, employee, or board or commission member shall receive compensation from, or knowingly obtain a financial interest in, any non-city entity in exchange for any service rendered or to be rendered by him or her personally in any case, proceeding, application, or other matter which is before any city agency, department, board, commission or other authority. No person shall be required to divest themselves of a financial interest in existence at the time he or she initially assumes office or prior to the non-city entity having a matter come before the City, but recusal in accordance with subsection (C) shall be required.
- E. If uncertain as to whether a true conflict of interest exists, any elected official, employee, or board or commission member may, before a matter is decided, disclose a potential conflict of interest to the Mayor or Director of Law, or the City's Board of Ethics, and request an opinion to determine whether the potential conflict of interest precludes the elected official, employee, or board member's participation in a particular matter.
- F. No elected official, employee or board or commission member shall be required to recuse himself or herself with respect to the following matters:
  - (1) Adoption of the city's annual budget as a whole; or
  - (2) Any matter that does not involve the exercise of discretion
- G. No elected official, employee, or board or commission member, shall engage in or accept private employment or render service for private interests when such employment or service is incompatible with proper discharge of his or her official duties or would tend to impair his or her independence, judgment or action in the performance of his or her official duties.

207.07            NEPOTISM

- A. No elected official, employee, or board or commission member, either individually or as a member of a body, may participate in any decision specifically to appoint, hire, promote, discipline, or discharge a relative for any position of the City.
- B. No elected official, employee, or board or commission member may, either individually or as a member of a body, supervise a relative in the performance of the relative's official powers and duties.
- C. No public official, employee or board or commission member shall secure any public contract in which the individual, a member of the individual's family, or any of the

individual's business associates has an interest in violation of Ohio Revised Code Section 2921.42.

208.08 GIFTS

- A. All individuals shall comply with the requirements and prohibitions applicable to public officials and employees, as stated in Ohio Revised Code Section 102.03
- B. No elected official, employee, or board or commission member shall solicit or accept any gift where:
  - (1) The gift is intended to influence the elected official, employee, or board or commission member in the performance or non-performance of his or her official powers or duties;
  - (2) The gift is intended to reward for any official action on the part of the elected official, employee, or board member in violation of Ohio Revised Code Section 2921.43.
- C. Presumption of influence. Subject to the exceptions listed in subsection (D), the following presumptions shall apply:
  - (1) A gift or multiple gifts from a contractor or lobbyist within the same calendar year having an annual aggregate face value of seventy-five dollars (\$75.00) or more are presumed to influence an elected official, employee, or board or commission member in the performance or non-performance of his or her official powers or duties.
  - (2) A gift to an elected official, employee or board or commission member is presumed to be intended to influence the performance or non-performance of his or her official powers or duties when the gift is from a private person or organization that seeks City action involving the exercise of discretion by or with the participation of the individual.
  - (3) A gift to an elected official, employee, or board or commission member is presumed to be intended to reward for official action when the gift is from a private person or organization that has obtained City action involving the exercise of discretion by or with the participation of the individual during the preceding twelve months.
- D. Notwithstanding the provisions in subsection (B), the following gifts shall not carry a presumption of influence:
  - (1) Gifts made to the City;
  - (2) Gifts given on special occasions, such as marriage, illness, or retirement, which are reasonable and customary, and which do not otherwise constitute a substantial and improper influence on the recipient;



- (3) Meals and refreshments provided when an elected official, employee, or board member is in his or her professional capacity a speaker or participant at a job-related conference or program, and the meals and refreshments are made available to all participants;
- (4) Invitations to or attendance at charitable fundraisers or community events that provide meals of an ordinary character and do not include entertainment of a significant value;
- (5) Anything for which an elected official, employee, or board member pays face value, or at a discount available to all city employees or the general public;
- (6) Any campaign contribution that is otherwise lawfully received and reported under this Code and general law.

#### 208.09 FINANCIAL DISCLOSURE

Elected officials shall file an annual disclosure statement directly with the Ohio Ethics Commission or the appropriate filing agency by the deadline prescribed by the Ohio Ethics Commission.

#### 208.10 FUTURE EMPLOYMENT

- A. No present or former elected official or employee shall, during public service or for twelve months thereafter, represent or act in a representative capacity for any person or organization on any matter involving the exercise of discretion by the city or any agent thereof, in which the present or former elected official or employee, personally participated in his or her capacity as a city official.
- B. This section shall not be construed as prohibiting an elected official, or employee from representing himself or herself before the City, or asserting a claim against the City on his or her own behalf, nor shall this section prohibit any individual from representing a person or organization on an uncompensated basis.

#### 208.11 DISCRIMINATION

No elected official, employee, or board or commission member shall discriminate against anyone on the basis of race, religion, national origin, age, sex, gender, ethnicity, sexual orientation, gender identity and expression, disability, or genetic information.

#### 208.12 PARTISAN POLITICAL ACTIVITY BY CLASSIFIED CIVIL SERVICE EMPLOYEES

All elected officials, employees and board or commission members are subject to the rules regarding political activity pursuant to Ohio Revised Code Chapter 124 and Ohio Administrative Code Chapter 123, as is now or hereafter amended.

208.13 BOARD OF ETHICS

- A. There is hereby created a Board of Ethics, consisting of three members appointed by the Mayor. The members of such Board shall serve without compensation for six-year terms, except that of the original appointments, one shall be for a term expiring December 31, 1975, one for a term expiring December 31, 1977, and one for a term expiring December 31, 1979.
- B. The Board shall have the following functions, powers and duties:
- (1) The Board shall receive, and may initiate, complaints against elected or appointed members of Council, the Mayor, other officers or employees of the City and members of any board or commission of the City concerning conduct alleged to be in violation of any of the provisions of this chapter or any law or ordinance which establishes ethical standards for such officers or employees of the City or members of any board or commission of the City. The Board shall investigate each complaint and for this purpose may subpoena witnesses, administer oaths and require production of evidence. No person shall fail or refuse to obey a lawful order issued in the exercise of these powers. Whoever violates this provision shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both. The Board may conduct either formal or informal hearings and it may close any hearing to the public. It may declare any matter it deems appropriate to be confidential. Complaints shall be in writing, should state facts supporting any allegation, and may suggest matters to be probed by the Board in the course of its investigation. At the conclusion of its investigation it shall render a report to the Mayor, Council and the Law Director. Such report shall contain a summary of the Board's findings and its recommendation as to the disposition of the matter in question.
  - (2) Upon the written request of any member of Council, any officer or employee of the city or any member of any board or commission of the City, or whenever it deems it advisable, the Board may render advisory opinions with regard to questions concerning ethics or conflicts of interest.

208.99 PENALTY

Unless otherwise provided in this Chapter, a violation of any provision of this Chapter may constitute a basis for disciplinary action including written warning, reprimand, suspension, demotion, removal from office or termination of employment or position, and may also constitute a fourth degree misdemeanor punishable by up to \$250.00 fine and/or thirty (30) days jail.