

CITY OF MARSHALL
CODE OF ETHICS AND CONFLICT OF INTEREST
ADOPTED AUGUST 4, 2021

I. Statement of Purpose

Every citizen in the City is entitled to have complete confidence in the integrity of the process of local government. Each representative of the people of the City, whether elected or appointed, paid or unpaid, serving on a Council, committee, commission or as an employee, shares the responsibility for earning and retaining the public's trust. The City's public officials must faithfully discharge the duties of their office in the best interest of the City, recognizing the public interest must be primary and their behavior above reproach. Even the appearance of a public official's personal gain or benefit at the expense of the City may undermine the public's confidence in the fairness of the process of City government.

The provisions of this policy are intended to provide guidance to the public officials of the City by establishing standards of conduct, both expected and prohibited. The public officials of the City are expected to comply with both the requirements of this Policy and applicable Michigan law, including, but not limited to, the Contracts of Public Servants With Public Entities Act, PA 317 of 1968 (MCL 15.321 *et seq*); Standards Of Conduct For Public Officers And Employees Act, PA 196 of 1973 (MCL 15.341 *et seq*), and 2 CFR § 200.318(c) - General procurement standards.

II. Definitions

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| Benefit | Anything reasonably regarded as a monetary or financial gain or advantage, including any gain or advantage to any other person in whose welfare the public official has a direct and substantial interest. A public official has a direct and substantial interest in the welfare of the official's family members and employer. |
| Business | A sole proprietorship, partnership, firm, corporation, holding company, receivership, trust, unincorporated association, or any other entity recognized by law. |

Conflict of Interest	A “conflict of interest” arises anytime one’s actions as a public official may have a deferential, monetary or financial impact on said official or his or her family, as opposed to the public at large, or when the independence of one’s actions as a public official could in any way be compromised by the individual’s outside interests.
Employee	Any person listed on the payroll of the City, whether part or full time.
Immediate Family Member	<ol style="list-style-type: none"> 1. A public servant’s spouse or domestic partner, or 2. A public servant’s relative by marriage, lineal descent, or adoption who receives, directly or indirectly, more than one-half of his or her support from the public servant, or from whom the public servant receives, directly or indirectly, more than one-half of his or her support; or 3. An individual claimed by a public servant or a public servant’s spouse as a dependent under the United States Internal Revenue Code, being 26 USC 1 et seq.
Family Member	A spouse, domestic partner, parent, child, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent or grandchild.
Gift	A voluntary transfer of property (including money) or the conferral of a benefit having monetary or financial value, unless consideration of equal or greater value is received by the donor.
Official Action	<p>Includes:</p> <ol style="list-style-type: none"> 1. Any affirmative act, including making a recommendation within the scope of a public official’s duties; and 2. Any failure to act when the public official is under a duty to act.
Public Official	“Public officials” of the City include all members of the City Council, members of all committees, boards and commissions of the City, the City Manager and all other City employees and appointees.
Relative	A person who is related to a public servant as spouse or as any of the following, whether by marriage, blood or adoption: parent, child, brother, sister, uncle, aunt, nephew, niece, grandparent, grandchild, father-in-law, mother-in-law, son-in-law,

daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, brother-in-law, or sister-in-law.

City The City of Marshall

III. Standards of Conduct

1. No employee, officer, or agent of the City may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the City may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. The City shall disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.
2. **Disclosure of Confidential Information.** A public official shall not divulge to an unauthorized person confidential information acquired in the course of public service in advance of the time prescribed for its release to the public.
3. **Suppression of Information for Personal Gain.** A public official shall not, for personal gain or benefit, suppress or attempt to suppress public documents or information otherwise available to the general public.
4. **Mischaracterization of Opinions.** A public official shall not represent their view or their personal opinion as being that of the City.
5. **Internet and E-mail Use, Social Media.** The provisions of the City's policies pertaining to internet, e-mail use, and social media, applies to all public officials of the City.
6. **Public Employment for Personal Gain.** A public official shall not use the personnel, property or other resources of the City, or the prestige of their office, for personal benefit or gain.

7. **Gifts and Gratuities.** A public official shall not solicit or accept a gift or a loan of money, goods, or other thing of value which is intended to influence the way the public official performs official duties. This rule shall not be construed to prohibit political campaign contributions made in accordance with applicable Michigan statutes.
8. **Prohibition of Certain Private Business Transactions.** A public official shall not engage in a business transaction in which they may profit from their official position or authority, or benefit financially from confidential information which the public official has or may obtain by reason of that position or authority.
9. **Incompatible Offices or Employment.** A public official shall not engage in, accept, or continue employment when that employment is incompatible or in conflict with the public official's discharge of official duties or may impair the independence of judgment or actions in the performance of those duties. This rule does not apply and the public official may participate in official action if:
 - a. The requisite quorum for official action would not be available without the participation of the public official; and
 - b. The public official is not paid for working more than twenty-five (25) hours per week for the City; and
 - c. The public official promptly discloses on the public record of the official action any personal, financial, business or employment interest the official may have in a decision; and
 - d. The official action does not concern a contract in which the public official has a financial interest.
10. **Solicitation of Contracts.** A public official shall not be a party to, directly or indirectly, or solicit a contract between the City and the public official, a business entity of which the public official is an employee, partner, or member, a trust of which the public official is a beneficiary, or with any corporation in which the public official is a director, officer, employee or stockholder with ownership of more than one percent (1%) of the outstanding stock or a present value in excess of Twenty-Five Thousand and no/100 Dollars (\$25,000.00). Exception: A public servant who is paid for working an average of 25 hours per week or less for a public entity.

A public official must promptly disclose in writing to the City Council any interest in the contract for the public record seven (7) days before the contract is considered, and the contract must be approved by a vote of at

least two-thirds (2/3) of the members of the Council without the vote of the public official making the disclosure. In the event a 2/3 quorum cannot be satisfied, the public official may be counted for a quorum and vote on a contract, if the benefit to the public official is less than Two Hundred Fifty and no/100 Dollars (\$250.00) and less than five percent (5%) of the public cost of the contract, and the public official files a sworn affidavit to that effect as part of the public proceedings regarding the official action to be taken.

11. Prohibited Representation. A public official of the City shall not represent:

- a. Any person, group or other entity before the body of which the public official is a member.
- b. Any person, group or other entity before the City Council.

12. Misuse of Public Position to Obtain Information. Public officials of the City shall not use their positions to obtain official information about any person or entity for any other purpose than the performance of official duties. This section shall not be construed to prohibit a public official from obtaining information which is available to the general public.

13. Preferential Treatment. All City activities shall be conducted fairly and impartially. City public officials shall not for any reason show favoritism in carrying out the City's business. No public official shall use their employment or position to secure or attempt to secure advantages, privileges, exceptions or preferential treatment for themselves or others, directly or indirectly.

14. Avoidance of Appearance of Impropriety. To avoid the appearance and risk of impropriety, a City public official or employee shall not take any official action that is likely to affect the economic interests of:

- a. The public official;
- b. Immediate Family Members, Family Members, Relatives;
- c. An outside client;
- d. A member of the official's household;
- e. The employer of the official, or the official's spouse, parent or child;

- f. A business entity in which the official or family member has a financial interest;
 - g. A person with whom the public official has a relationship which is sufficiently close or antagonistic so as to impede the official's ability to make an unbiased decision.
15. **Use of City Resources.** City officials, appointees, employees and volunteers shall not use public resources that are not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain, private purposes or personal purposes.
16. **Maintaining the Integrity of Office.** A City Council member who intends to enter into an office or position that is incompatible with his or her City Council office shall resign from City Council office by submitting a letter of resignation to the City Council stating the effective date of his or her resignation (i.e., the last day he or she will hold City office).
17. **Residency.** A City Council member who intends to reside permanently outside the City shall resign from City Council office by submitting a letter of resignation to the City Council stating the effective date of his or her resignation (i.e., the last day he or she will hold City office).
18. **Truthfulness.** All information provided by City officials, appointees, Councils and commissions, employees and volunteers will be truthful and complete. The City Council, appointees, Councils and commissions, employees and volunteers shall not knowingly make false or misleading statements, or use false or misleading information as the basis for making a decision.
19. **Avoiding Undue Influence on Other City Councils and Commissions.** Because of the value of the independent advice of Councils, commissions and committees to the public decision-making process, members of the City Council shall refrain from using their position to unduly influence the deliberations, outcomes or recommendations of Council, commissions and committee proceedings.
20. **Discussions.** The professional and personal conduct of City officials, appointees, employees and volunteers must be above reproach and avoid the appearance of impropriety. While recognizing First Amendment rights, all should refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the City Council, other City Councils, commissions and committees, employees and volunteers

21. **Council Member Communication of City Positions.** City Council members shall represent the official policies or positions of the City Council, commission or committee to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, officials shall explicitly state that these positions do not represent those of the City Council members or the City.
22. **Meeting Attendance and Demeanor.** City officials, appointees, employees and volunteers shall come to meetings on time and be prepared to deliberate and make decisions. Council members shall honor the role of the presiding officer in maintaining order and ensuring equal opportunity to provide input on matters of public policy. Council members will respect the role of the Manager as moderator to focus discussion on current agenda items. Objections to the Manager's actions should be voiced politely and with reason.
23. **Misconduct in Office by Public Officers.** Misconduct in Office applies only to public officers, as distinguished from public employees. Misconduct in Office is a common law offense subject to the provisions of MCL 750.505; MSA 28.773. The offense of Misconduct in Office includes malfeasance, which is doing a wrongful act; misfeasance, which is doing a lawful act in a wrongful manner; and, nonfeasance, which is failure to perform an act required by the duties of the office. Public censure and/or public reprimand are possible actions that can be taken by public Councils against public officials who demonstrate evidence of corrupt intent.

IV. Recusal and Disclosure

From the time a conflict with these Standards of Conduct is or should have been recognized, the public official shall:

1. Immediately refrain from further participation in the matter, including discussion with any persons likely to consider the matter; and
2. Promptly disclose to the appropriate City Council committee, commission or Manager, in the case of an employee, the nature and extent of the conflict.

A public official's disclosure of the conflict of interest shall be made either orally on the record at or before a meeting of the City Council, committee or commission involved or in a writing filed with the City Clerk. That disclosure must include, at a minimum:

1. The identities of all involved parties;

2. The nature of any monetary or financial interest;
3. The terms of any contract or arrangement between the parties and the City;
4. A narrative description of the conflict.

A public official who is recorded as present shall vote on all questions to be decided by the Council, commission, committee, or body unless recusal is required by law or this Code and Policy. In all other instances, said official's participation may be excused only by the consent of two-thirds (2/3) of the other members present.

V. Procedure for Questions or Complaints

Any person who believes there has been a violation of, or who would like an advisory opinion regarding the interpretation of, the provisions of this policy shall transmit their written question or complaint to the City Manager. The City Attorney shall substitute for the City Manager in the event the Manager is the subject of the complaint or reason for requesting an advisory opinion. Every effort shall be made to achieve resolution of a complaint or the rendering of an advisory opinion within thirty (30) days of its submission.

VI. Violation, Penalty

Violation of this Policy by a non-elected City public official shall constitute grounds for discipline, dismissal or removal from employment or appointed office unless otherwise governed by statute.

VII. Revisions

The City may, from time to time, revise this policy. The policy may also be repealed by the City Council.

Adopted August 4, 2021
City of Marshall
Council Members