

★ **Roll Call Number**

Agenda Item Number

26 I

Date April 5, 2021

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by adding Division 3, Sections 2-105, 2-106, 2-107, 2-108, 2-109, 2-110, 2-111, 2-112, relating to City Council Ethics Code",

which was considered and voted upon under Roll Call No. 21- 0480 of March 22, 2021; again presented.

Moved by _____ that this ordinance be considered and given second vote for passage.

(Second of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

CERTIFICATE

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

APPROVED

Mayor

City Clerk

ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by adding Division 3, Sections 2-105, 2-106, 2-107, 2-108, 2-109, 2-110, 2-111, 2-112, relating to City Council Ethics Code.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended, by adding Division 3, Sections 2-105, 2-106, 2-107, 2-108, 2-109, 2-110, 2-111, 2-112, relating to City Council Ethics Code, as follows:

DIVISION 3. CITY COUNCIL ETHICS CODE

Sec. 2-105. Purpose of ethics code.

The city council hereby adopts this ethics code to establish standards for uniform conduct which prevent conflicts of interest or the appearance of conflicts of interest in order to uphold the integrity of the office of city council and to assure taxpayers and citizens of the propriety of city council actions.

Sec. 2-106. Definitions.

Apparent conflict of interest occurs when a reasonable person would think that a councilmember's judgment is likely to be compromised.

Appearance of conflict of interest means the impression that a reasonable person might have, after full disclosure of the facts, that a councilmember's judgment might be significantly influenced by outside interests, even though there may be no actual or legal conflict of interest.

Conflict of interest means a situation in which financial or other personal considerations have the potential to compromise or bias a councilmember's judgment and objectivity.

Immediate family means the spouse, children, step-children, grandchildren, parents, step-parents, grandparents, brother, sister, step-brother, step-sister, and immediate household members of a councilmember.

Potential conflict of interest involves a situation that may develop into an actual or legal conflict of interest.

Sec. 2-107. Conflicts of interest prohibiting councilmember action and barring councilmembers or the immediate family of council members from participation.

- (a) No member of the city council shall vote, take any official act or action, or participate in the discussion before the council or any city agency, board or commission associated with any item in which such member has a direct or indirect pecuniary interest, which includes without limitation, the following interests and persons:
- (1) A councilmember's property or financial interests;
 - (2) A councilmember's immediate family;
 - (3) Any person or entity employing or offering employment of the councilmember or any member of the councilmember's immediate family;
 - (4) Any business entity in which the councilmember's or the councilmember's immediate family has a legal or beneficial ownership interest of five percent (5%) or greater; or
 - (5) Any person or business entity with whom a contractual relationship exists with the councilmember or the councilmember's immediate family member.
- (b) For contracts or transactions which are the subject of an official act or action of the City, or may in the future be the subject of an official act or action of the City, councilmembers are prohibited from:
- (1) Having or thereafter acquiring an interest in such contract or transaction;
 - (2) Having an interest in any business entity representing, advising, or appearing on behalf of, whether paid or unpaid, any person or business entity involved in such contract or transaction;
 - (3) Soliciting or accepting present or future employment with a person or business entity involved in such contract or transaction or with any entity doing business with or having any matter pending with the city; or
 - (4) Soliciting or accepting any present or future gift, favor, service, or thing of value from any person involved in such contract or transaction.
- (c) Councilmembers are prohibited from taking any official act or action for actual conflicts of interest, apparent or potential conflicts of interest, and appearances of conflict of interest.
- (d) Councilmembers and their immediate family are ineligible to apply for or to accept grants, loans or other financial assistance from the city or from an entity that receives financial support from the city, unless excepted herein.

Sec. 2-108. Recusal in the event of a conflict of interest.

When a conflict of interest, apparent conflict of interest, appearances of conflict of interest or potential conflict of interest occurs as described in this ethics code or by operation of Iowa law with respect to a councilmember on a matter before the city council, the councilmember is required to recuse himself or herself and is prohibited from deliberation, voting, or participation in any way, on the matter. Participation includes, without limitation, a councilmember making known his or her preference on the matter or discussing the matter with other councilmembers or city staff, whether prior to, during or after the meeting at which such matter comes before the city council.

Sec. 2-109. Exceptions.

The prohibitions in section 2-107 shall not apply to the following:

- (a) Benefits or programs that are offered city wide to all other similarly situated residents or property on an ongoing fiscal year after fiscal year basis, such as tax abatement or backflow preventer reimbursement programs. Limited budgeted or one-time funded benefits or programs shall not be an exception to the requirements of section 2-107.
- (b) To the extent consistent with Iowa Code Chapter 68B and sections 2-110, 2-713, and 94-3 of this Code, *de minimis* or occasional monetary amounts or non-pecuniary gifts.
- (c) A commercially reasonable loan or commercially reasonable retail sale made in the ordinary course of business by an institution authorized by Iowa law.
- (d) Competitively bid or competitively awarded contracts with city funded entities.
- (e) Actions or transactions involving councilmember immediate family members or business partners of councilmembers as long as such city council action or transaction directly results in a substantial increase in the city tax base or directly results in a substantial improvement to a city neighborhood. For purposes of this exemption, "substantial" shall be as determined by the city's ethics officer on a case by case basis.
- (f) Grant, loan or financial assistance programs where the city council explicitly authorizes or directs that councilmembers or their immediate family are eligible to participate.

Sec. 2-110. Gifts.

No councilmember shall solicit or accept gratuities, favors, money, rebates or anything of monetary value from persons or entities from whom the city procures goods and/or services, of from city contractors, potential contractors or consultants or parties to sub-agreements with city contractors, or from persons from whom the city is acquiring a property or property interest.

Sec. 2-111. Additional prohibitions.

- (a) This ethics code is in addition to the applicable conflict of interest prohibitions found in sections 2-713 and 94-3 of this Code regarding city officers. In the event of a conflict between any of these sections of this Code, the most restrictive prohibitions shall apply.
- (b) Councilmembers are prohibited from representation of others before the city council, and all other city boards, committees, commissions, and agencies or in any court action involving the city. The prohibition on appearances before the city council and city board, committees, commissions and agencies shall remain in effect for a period of one year after leaving office.

Sec. 2-112. City ethics officer enforcement responsibility and city attorney opinions binding.

- (a) The city ethics officer shall be the deputy city manager and shall be responsible for education and enforcement of this ethics code, including determination of apparent conflicts, the appearance of conflicts, potential conflicts, and conflicts of interests under

this ethics code. To discharge such responsibilities, the deputy city manager may request advice and opinions from the city attorney.

(b) Councilmembers may also request an opinion from the city attorney on any issue regarding this ethics code, which opinion shall be binding upon the city, or councilmember, as applicable, in any subsequent action or transaction. The city ethics officer shall be required to retain copies of all such city attorney opinions and to make them available to the city council upon request.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

/s/ Lawrence R. McDowell
Lawrence R. McDowell
Deputy City Attorney