



Kim Olson
Chairperson

Ken Neumann
Aldersperson

Jesse Liebenow
Aldersperson

**CITY OF MAYVILLE PERSONNEL
COMMITTEE MEETING AGENDA - **AMENDED**
IMMEDIATELY FOLLOWING
PUBLIC SAFETY COMMITTEE
MONDAY, JULY 22, 2024
CITY HALL
15 S SCHOOL ST**

I. CALL TO ORDER AND ROLL CALL

II. APPROVAL OF MINUTES

III. CITIZEN COMMENTS

Citizen Comments are to be kept to a maximum of five minutes per speaker unless the chairperson allows an extension of time. Each citizen is to make comments at the podium after stating name and address. Each citizen may comment only one time per public hearing / meeting.

IV. DISCUSS WITH POSSIBLE ACTION-

1. Discuss, with Possible Action, the Adoption of a Code of Ethics for Council Members
2. Discuss, with Possible Action, Ordinance to Create the City Administrator Position – Ordinance 1140-2024 An Ordinance to Repeal and Replace Sections 105-2 and 105-3 and to Create Section 105-4 of the Municipal Code of the City of Mayville

V. ADJOURNMENT

Kim Olson
Chairperson

NOTE: Persons with disabilities requiring special accommodations for attendance at the meeting should contact City Hall at least one (1) business day prior to the meeting.

CHAPTER 5. ETHICS CODE¹

Sec. 2-5-1. Declaration of Policy.

The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government 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. In recognition of these goals, there is hereby established a code of ethics for all City of Oconto officials and employees, whether elected or appointed, paid or unpaid, including members of boards, committees and commissions of the City. The purpose of this Code is to establish guidelines for those acts or actions that are incompatible with the best interests of the City of Oconto and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the City. The provisions and purpose of this Code and such rules and regulations as may be established are hereby declared to be in the best interests of the City of Oconto.

Sec. 2-5-2. Responsibility of Public Office.

Public officials and employees are agents of public purpose and 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 and carry out impartially the laws of the nation, state and City and to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their prime concern. Their conduct in both their official and private affairs should be above reproach so as to foster respect for all government.

Sec. 2-5-3. Dedicated Service.

- (a) All officials and employees of the City of Oconto should be loyal to the objectives expressed by the electorate and the programs developed to attain these objectives. Appointed officials and employees should adhere to the rules of work and performance established as the standard for their position by the appropriate authority.
- (b) Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

Sec. 2-5-4. Fair and Equal Treatment.

- (a) *Use of Public Property.* No official or employee shall request or permit the unauthorized use of City-owned vehicles, equipment, materials or property for personal convenience or profit.
- (b) *Obligations to Citizens.* No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

¹State law reference(s)—Code of ethics for public officials and employees, Wis. Stats. § 19.41 et seq.

Sec. 2-5-5. Conflicts 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 financial or other personal interest contrary to the provisions of this Chapter or would tend to impair his independence of judgment or action in the performance of his official duties.
- (b) *Definitions.*
 - (1) *Financial Interest.* Any interest which shall yield, directly or indirectly, 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.
 - (2) *Personal Interest.* Any interest arising from blood or marriage relationships or from close business or political associations, whether or not any financial interest is involved.
 - (3) *Person.* Any person, corporation, partnership or joint venture.
- (c) *Specific Conflicts Enumerated.*
 - (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 is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties, unless otherwise permitted by law and unless disclosure is made as hereinafter 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, nor shall he use such information to advance the financial or other private interest of himself or others.
 - (3) *Gifts and Favors.* No official or employee shall accept any valuable gift, whether in the form of service, loan, thing of value, or promise, from any person, firm, corporation which to his knowledge is interested, directly or indirectly, in any manner whatsoever in business dealings with the City nor shall any such official or employee accept any gift, favor or thing of value that may tend to influence him in the discharge of his duties, or grant in the discharge of his duties any improper favor, service or thing of value. Gifts received under unusual circumstances should be referred to the Ethics Board within ten (10) days for recommended disposition.
 - (4) *Representing Private Interests Before City Agencies or Courts.* No officer or employee shall appear on behalf of any private person, other than himself, his spouse or minor children, before any City agency or municipal court. However, a member of the Common Council may appear before City agencies on behalf of his constituents in the course of his duties as a representative of the electorate or in the performance of public or civic obligations.
- (d) *Contracts With the City.* No City officer or employee who in his capacity as such officer or employee participates in the making of a contract in which he has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on his part, shall enter into any contract with the City unless, within the confines of Wis. Stats. § 946.13.
 - (1) The contract is awarded through a process of public notice and competitive bidding, or
 - (2) The Ethics Board hereinafter created waives the requirement of this Section after determining that it is in the best interest of the City to do so.
- (e) *Disclosure of Interest in Legislation.*

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- (1) Any member of the Common Council who has a financial interest or personal interest in any proposed legislation before the Common Council shall disclose on the records of the Common Council, or the ethics board created by this Ordinance, the nature and extent of such interest.
 - (2) Any other official or employee who has a financial or personal 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.

Sec. 2-5-6. Disclosure of Certain Financial Interests.

- (a) The Mayor, Aldermen, City Clerk/Treasurer, Attorney, Assessor, Building Inspector, Director of Public Services, members of the Plan Commission, Director of Parks, Recreation and Forestry, Committee of the Whole members, members of the Zoning Board of Appeals and such other officials and employees designated by the Board of Ethics.
- (b) Within seven (7) days after a person becomes a candidate for any elective City office enumerated in Subsection (a), or prior to appointment to such office, such person shall file two (2) statements of economic interest with the City Clerk/Treasurer; the Clerk shall forthwith forward one (1) copy of the statement to the Board of Ethics.
- (c) No person required to file a statement of economic interest under this Section who has not complied with Subsection (b) shall have his name appear on the ballot, take the oath of office, or receive his salary or compensation until he files such statements of economic interests. The City Clerk/Treasurer is directed to strike from the ballot the name of any candidate who has not complied with Subsection (b).
- (d) Each person required to file statements under Subsection (a), except for elected officials for the year elected, shall file updated statements no later than April 30, of each year.
- (e) Elected officers and officers appointed for a definite term shall be exempt from the provisions of this Section for the term they are serving at the effective date of this Chapter, but shall be so subject for any subsequent term.

Sec. 2-5-7. Form of Statement.

The person filing any statement of economic interests under this Chapter shall file the statement on a form prescribed by the Board of Ethics and shall supply the following information to the Board:

- (a) The name and address of the person, spouse and minor children and all names they use in business or any professional practice.
- (b) The name of all corporations and other business interests in which the person, spouse or minor children hold any office or directorship or own or control, directly or indirectly, more than two (2) percent of the outstanding stock or more than two (2) percent of other business ownership.
- (c) The names of the employers of the person and spouse and a brief statement of the nature of the employment.
- (d) A description of all parcels of real estate within the City and adjoining towns in which the person, spouse or minor children own any interest, including an option to purchase.
- (e) The name of all persons to whom the person filing, spouse or minor children owe a debt of three thousand dollars (\$3,000.00) or more, excluding debts on a personal residence and property used primarily for personal recreation.
- (f) Any license or permit issued by the City to the person, spouse or minor children.

Sec. 2-5-8. Campaign Contributions.

Campaign contributions shall be reported by all candidates for City office in strict conformity with the provisions of the Wisconsin Statutes. Any campaign contribution tendered to or accepted by a candidate subsequent to the final statutory report shall be reported to the Ethics Board.

Sec. 2-5-9. Ethics Board.

(a) *Composition.*

- (1) There is hereby created an Ethics Board to consist of seven (7) members. The membership of the Ethics Board shall consist of five (5) citizens, one (1) Alderman and one (1) other City officer or employee.
- (2) The members of the Ethics Board shall be appointed by the Mayor subject to confirmation by the Common Council. Terms of the office shall be three (3) years except when the initial appointments are made, two (2) members shall be appointed for one (1) year, two (2) for two (2) years and three (3) for three (3) years.
- (3) The Ethics Board shall elect its own Chairman and Vice-Chairman and shall develop written rules of procedure which shall be submitted to the Common Council for approval.

(b) *Powers and Duties.*

- (1) The Ethics Board may make recommendations with respect to amendments to this Code of Ethics ordinance.
- (2) Upon the sworn written complaint of any person alleging facts which if true would constitute improper conduct under the provisions of this Chapter, the Board shall conduct a public hearing in accordance with all common law requirements of due process and in written findings of fact and conclusions based thereon, make a determination concerning the propriety of the conduct of the subject official or employee and, if appropriate, refer the matter to the Common Council or other proper authority.

Sec. 2-5-10. Applicability of Chapter.

When an official or employee has doubt as to the applicability of a provision of this Chapter to a particular situation or definition of terms used in the Chapter he should apply to the Ethics Board for an advisory opinion and will be guided by that opinion when given. The official or employee shall have the opportunity to present his interpretation of the facts at issue and of the applicability of provisions of the Chapter before such advisory decision is made. This Chapter shall be operative in all instances covered by its provisions 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.

Sec. 2-5-11. Penalty and Sanctions.

Violations of any provision of this Chapter may constitute a course for suspension, removal from office or employment or other disciplinary action.

- (a) 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.

- (b) A three-fourths ($\frac{3}{4}$) vote of those in attendance of the Ethics Board shall be required to make a finding of probable cause.

Chapter 52. Ethics, Code of

[HISTORY: Adopted by the City Council of the City of Fond du Lac 2-23-2022 by Ord. No. 3746.^[1] Amendments noted where applicable.]

[1] *Editor's Note: This ordinance also repealed former Ch. 52, Ethics, Code of, adopted 6-23-1993 by Ord. No. 2679 as § 1.10 of the 1993 Code, as amended 4-24-2014 by Ord. No. 3544 and 11-26-2019 by Ord. No. 3702.*

§ 52-1. Declaration of policy.

- A. The proper operation of democratic government requires that elected and appointed officials be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that elected office not be used for personal gain; and the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a Code of Ethics for the City elected and appointed officials, as well as any individuals who are candidates for elective office as soon as such individuals file nomination papers with the City. The purpose of this code is to establish guidelines for ethical standards of conduct for all such elected and appointed officials by setting forth those acts or actions that are incompatible with the best interest of the City and by directing disclosure by such officials of private financial or other interests in matters affecting the City. The provisions and purpose of this code and such rules and regulations as may be established are hereby declared to be in the best interests of the City.
- B. The purpose of this code is to establish guidelines or ethical standards of conduct for local public officials by setting forth those acts or actions which are incompatible with the best interests of the City and by requiring such officials to disclose personal interests, financial or otherwise, in matters affecting the City.
- C. Nothing contained in this code is intended to deny to any individual the rights granted by the United States Constitution, the Constitution of this state, the laws of this state or labor agreements between the City and its bargaining units.

§ 52-2. Standards of conduct.

- A. The Code of Ethics for local government, officials, employees and candidates as set out in § 19.59 of the Wisconsin Statutes, or as subsequently amended, is hereby adopted and included herein by reference.
- B. There are certain provisions of the Wisconsin Statutes which should, while not set forth in this chapter, be considered an integral part of any Code of Ethics. Accordingly, the provisions of the following sections of the Wisconsin Statutes are made a part of this Code of Ethics and shall apply to local public officials whenever applicable:

§ 946.10	Bribery of public officers and employees
§ 946.11	Special privileges from public utilities
§ 946.12	Misconduct in public office

§ 52-3. Responsibility of public office.

Local public officials are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the United States Constitution and the Wisconsin Constitution and impartially carry out the laws of the nation, state and City. In their official acts, local public officials are bound to observe the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their prime concern.

§ 52-4. Dedicated service.

- A. All local public officials of the City should be loyal to the objectives expressed by the citizens and the programs developed to attain these objectives.
- B. Local public officials should not exceed their authority, breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

§ 52-5. Fair and equal treatment.

- A. Use of public property. No local public official shall request or permit the unauthorized use of personnel, City-owned vehicles, equipment, materials or property for personal convenience, profit or political reasons.
- B. Obligations to citizens. No local public official shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

§ 52-6. Definitions.

The following terms shall have the meanings indicated:

ANYTHING OF VALUE

Any money or property, favor, service, payment, advance, forbearance, loan or promise of future employment, but does not include compensation and expenses paid by the state, fees, honorariums and expenses which are permitted and reported under § 19.56, Wis. Stats., and political contributions which are reported under Ch. 11, Wis. Stats. Such allowable fees and contributions shall not influence good public policy.

ASSOCIATED

Includes any organization (when used with reference to an organization) in which an individual or a member of their immediate family is a director, officer or trustee, or owns or controls directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity or of which an individual or member of their immediate family is an authorized representative or agent.

CANDIDATE

Files nomination papers with the City Clerk.

CONFIDENTIAL INFORMATION

Written material or oral information related to City government, which is not otherwise subject to the public records law and which is expressly designated or marked as confidential.

FINANCIAL INTEREST

Any interest which yields, directly or indirectly, a monetary or other material benefit to the local public official or to any person employing or retaining services of the elected or appointed official.

GIFT

The payment or receipt of anything of value without valuable consideration.

LOCAL PUBLIC OFFICE

An elective office of the City of Fond du Lac, the City Manager, or an appointive office or position of the City that is filled by the City Council or City Manager and the position serves for a specified term or at the pleasure of the appointing authority. This definition does not include a candidate, a position that is limited to the exercise of ministerial action, a clerical position, or a position filled by an independent contractor.

LOCAL PUBLIC OFFICIAL

An individual holding a local public office.

PERSON

Any natural person, corporation, partnership or joint venture.

PERSONAL INTEREST

Any interest arising from blood or marriage relationships or from close business or political associations, whether or not any financial interest is involved.

§ 52-7. Conflict of interest.

- A. Financial and personal interest prohibited. No local public official, whether paid or unpaid, shall engage in any business or transaction or shall act in regard to financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties in the public interest, contrary to the provisions of this chapter or which would tend to impair independence of judgment or action in the performance of official duties.
- B. Incompatible employment. No local public official shall engage in or accept private employment or render service, for private interest, when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of his official duties, unless otherwise permitted by law and unless disclosure is made as provided below.
- C. Disclosure of confidential information. No local public official shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the City nor shall such information be used to advance the financial or other private interest of the official or others. Information generated in closed session shall be confidential until such time as it is legally allowed or required to be made public.
- D. Gifts and favors.
 - (1) No local public official or candidate shall accept anything of value, whether in the form of gift, service, loan, thing or promise, from any person which may tend to impair his independence of judgment or action in the performance of his duties or grant in the discharge of his duties any improper favor, service or thing of value.
 - (2) No local public official or candidate may solicit or accept, either directly or indirectly, from any person or organization money or anything of value, if it could reasonably be expected to influence the official's actions or judgments or be considered a reward for any action or inaction on the part of the official.

(3) A local public official or candidate is not to accept hospitality if after consideration of the surrounding circumstances it could reasonably be concluded that such hospitality would not be extended were it not for the fact that the guest or a member of the guest's immediate family was a local public official or candidate. Participation in celebrations, grand openings, open houses, informational meetings and similar events is excluded from this prohibition. This subsection further shall not be construed to prevent candidates for elective office from accepting hospitality from citizens for the purpose of supporting the candidate's campaign.

(4) Gifts received by a local public official under unusual circumstances should be referred to the Ethics Board within 10 days of receipt for recommended disposition.

E. Contracts.

(1) No local public official and no business in which a local public official holds a ten-percent or greater interest may enter into a contract with the City involving a payment or payments of more than \$3,000 within a twelve-month period unless such official has first made a written disclosure of the nature and extent of such relationship or interest to the Ethics Board and department acting for the City in regard to such contract, with the following exceptions:

(a) The contract is awarded through a process of public notice and competitive bidding; or

(b) The City Council waives the requirement of this subsection after determining that it is in the best interest of the City to do so.

(2) No City Council member may negotiate or enter into any contract on behalf of the City of Fond du Lac.

(3) The provisions of this subsection shall not apply to the designation of a public depository of public funds.

(4) This subsection does not affect the application of § 946.13, Wis. Stats.

F. Disclosure of interest in legislation. Any member of the City Council who has a financial interest or personal interest in any proposed legislation before the City Council shall disclose on the records of the Council or the Ethics Board created by this chapter the nature and extent of such interest.

G. Campaign contributions. Campaign contributions shall be reported by all candidates for City office in conformance with the provisions of Ch. 11, Wis. Stats. Any campaign contribution tendered to or accepted by a candidate subsequent to the final statutory report shall be reported to the Ethics Board.

H. Interference with election officials. No local public official or candidate for elective office shall in any manner interfere with or obstruct any local election official from performing his statutory duties and responsibilities as provided in Chs. 7, 8 and 11, Wis. Stats., unless such official is specifically authorized to perform those duties and responsibilities.

§ 52-8. Ethics Board established.

A. The Ethics Board shall consist of three members who shall serve without compensation unless the Council otherwise provides. The members of the Board shall be residents of the City and shall not be elected officials or City employees, nor shall they be currently serving on any other City board or commission. Each member shall be appointed by the City Council with members to be selected as follows:

(1) Two members and an alternate selected from a list of proposed members gathered under the provisions of § 14-1 of this Code.

(2) One member selected from a list of proposed members suggested by the Fond du Lac County Bar Association.

B. If the Bar Association fails to supply a list of proposed members, the Council shall appoint a member under § 14-1 of this Code.

C. Terms of office shall be three years. The alternate member shall be a member of the Board whenever one of the regular members is unavailable. The Board shall elect its own Chairperson and Vice Chairperson. The City Attorney's office or its designee shall provide the Board with the legal assistance necessary to carry out its function.

§ 52-9. Duties of Ethics Board.

- A. The Board shall adopt and develop written rules governing its operation. A copy of such rules shall be filed with the City Clerk.
- B. Ethics advisory opinions.
 - (1) Any individual (personally or on behalf of an organization or governmental body or local public official with the consent of a prospective organization or official) may request of the Board an advisory opinion regarding the propriety of any matter to which the person is or may become a party. In the absence of an ethics board or when time is of the essence, the City Attorney may provide the advisory opinion.
 - (2) Advisory opinions and requests will be in writing. Any individual requesting an advisory opinion or any individuals or organizations mentioned in the opinion shall not be made public, unless the individual, organization or governmental body consents to it and alterations are made to the summary of the opinion, which prevents disclosure of the identities of individuals involved in the opinion.
- C. The Board will accept from any eligible voter of the City of Fond du Lac a written, verified complaint stating the name of the local public official alleged to have committed a violation of this chapter and the particulars thereof. The complaint can be emailed, mailed or served in person on the City Attorney or City Manager.
- D. Confidentiality.
 - (1) The information contained in such complaint shall be kept confidential until a finding is made by the Board under Subsection **E(4)**. If no action on the verified complaint is taken by the Board within 60 days, the complaint shall be void and the Board shall issue a formal finding of no probable cause in the matter.
 - (2) Breach of confidentiality. If the complaint is not kept confidential, the complainant will be notified of the lapse in confidentiality and will have 10 days to post a cash bond in the amount of \$500 with the City Clerk. The bond will be held while the complaint is processed. If no bond is posted, the complaint will be dismissed. If the Board determines that the complainant negligently or deliberately leaked the complaint, they may order all or part of the bond to be paid to the subject of the complaint or otherwise disbursed. If the Board cannot determine the source of the leak, they may order the bond to be returned.
- E. Complaint processing.
 - (1) A complaint must comply with certain requirements to be valid. It must:
 - (a) Provide the full name and address of the person filing the complaint (called the "complainant"); and
 - (b) Be signed and sworn under oath before a notary.
 - (2) In order for a complaint to be considered complete and proper, it should:
 - (a) Clearly recite the facts that show specific violations under the Board's jurisdiction (citations to the law and/or regulations are valuable);
 - (b) Clearly identify each person, committee or group that is alleged to have committed a violation [called the "respondent(s)"];
 - (c) Include any documentation supporting the allegations, if available; and
 - (d) Differentiate between statements based on the complainant's (the person who files the complaint) personal knowledge and those based on information and belief. Statements not based on personal knowledge should identify the source of the information.
 - (3) The City Attorney's office will review each complaint to determine whether it states a violation within the jurisdiction of the Board and satisfies the criteria set forth in Subsection **E** for a proper complaint. If the complaint does not meet these requirements, the City Attorney will notify the

complainant of the deficiencies.

(a) Nonjurisdictional complaints.

[1] Within five days of receiving a complaint, the City Attorney or Assistant City Attorney will determine whether the complaint involves a matter outside of the Board's jurisdiction. The City Attorney's office will generate an email or letter advising the complainant:

[a] That the Board does not have jurisdiction regarding the matter, and informing the complainant of any other governmental agency that may be able to assist with the matter, if that information is known; or

[b] That the matter should be addressed by the District Attorney or other governmental body. Standardized communications may be utilized to resolve matters outside of the Board's jurisdiction. The letter or email will also attach the complaint.

(b) Jurisdictional complaints.

[1] Within five days of receiving a complaint that is within the jurisdiction of the Ethics Board, staff will email and mail the sworn complaint to the complainant and respondent. Before voting on whether to take any action regarding the complaint, other than to dismiss, the Board will give the complainant and respondent receiving a notice an opportunity to demonstrate to the Board, in writing and within 15 days after receiving the notice, that the Board should take no action against the person on the basis of the complaint.

[2] A respondent who is or intends to be represented by legal counsel should inform the Board by sending a statement regarding the designation of counsel, including the name and address of the attorney that is representing them.

[3] The Ethics Board may request that they be provided outside legal counsel to review, analyze and consider the complaint, the response and any relevant evidence, documents and/or information that's brought forward by complainant or respondent to make their probable cause determination and, also, to advise the Board if a probable cause hearing is held.

(4) Probable cause hearing and vote to proceed.

(a) A respondent may request to have a probable cause hearing before the Ethics Board or the Ethics Board may choose to have a hearing on their own motion. The hearing will be closed pursuant to § 19.85, Wis. Stats., unless the respondent asks to have the hearing open. The rules of criminal evidence shall apply to such hearings. All evidence, including certified copies of records and documents which the Board considers, shall be fully offered and made part of the record in each case. Every party shall be afforded adequate opportunity to rebut or offer countervailing evidence.

(b) Each jurisdictional complaint, along with any written response filed by respondent and any testimony or evidence that was produced in the probable cause hearing will be considered by the Board in order to make recommendations on whether there is "probable cause" that the respondent has committed or is committing a violation of the provisions of this chapter. The Board will make a final decision by voting for or against a "probable cause" determination or otherwise terminating the complaint. Three affirmative votes are required to go forward with any referral for enforcement. In making this determination, the Board members may consider the complaint, the respondent's reply, available information on the public record, any testimony or evidence that was produced at the probable cause hearing and the Ethics Board's attorney and/or staff's analysis and recommendations.

(c) If the Board finds that there is "probable cause" that the respondent has violated or is violating the provisions of this chapter:

[1] Referral for enforcement by the District Attorney's office. The Board may refer the matter to the District Attorney for criminal prosecution; or

[2] Referral for enforcement in Municipal Court. The Board may refer the matter to the Municipal Court as a civil forfeiture prosecution.

(d) If the Board fails to find "probable cause" that a violation has occurred or is occurring, or if the Board dismisses the matter for other reasons, the case is closed and the parties involved are notified. The Board can provide additional advisory guidance to the respondent or the

complainant in their dismissal notice.

- F. The Board shall have the power to compel the attendance of witnesses and to issue subpoenas granted other boards and commissions under § 885.01(3), Wis. Stats.

§ 52-10. Applicability.

This Code of Ethics shall apply in all instances covered by its provisions 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.

§ 52-11. Distribution.

The City Clerk shall provide copies of this code to local public officials covered by this code and shall keep at least one copy permanently on file for the use of the public.

§ 52-12. Violations and penalties.

Violation of this chapter will be subject to a forfeiture as outlined in the general penalty provisions of § **1-4** of the Fond du Lac Code of Ordinances.

ORDINANCE NO. 1140-2024

AN ORDINANCE TO REPEAL AND REPLACE SECTIONS 105-2 AND 105-3 AND TO CREATE SECTION 105-4 OF THE MUNICIPAL CODE OF THE CITY OF MAYVILLE

THE COMMON COUNCIL OF THE CITY OF MAYVILLE DOES ORDAIN AS FOLLOWS:

Section 105-2, entitled “Appointed officials,” of the Municipal Code of the City of Mayville, is hereby repealed and replaced, to read as follows:

§ 105-2 Appointed officials.

[Added by Ord. No. 752-91 (§ 1.03 of the 1989 Code); amended by Ord. No. 819-95; Ord. No. 832-96; 3-10-2008 by Ord. No. 1006-2008; 12-12-2011 by Ord. No. 1044-2011; 10-14-2013 by Ord. No. 1056-2013]

Official	Appointed By	Term
City Administrator	Council, upon recommendation of Personnel Committee	Indefinite*
City Clerk	Council, upon recommendation of Personnel Committee	Indefinite*
City Treasurer- Comptroller	Council, upon recommendation of Personnel Committee	Indefinite*
Deputy Clerk	Council, upon recommendation of Personnel Committee	Indefinite*
City Attorney	Council, upon recommendation of Personnel Committee	2 years, commencing May 1
Chief of Police	Police and Fire Commission	Indefinite
Fire Chief	Police and Fire Commission	Indefinite
Assistant Fire Chief	Police and Fire Commission	Indefinite
Assessor	Council, upon recommendation of Finance Committee	1 year
Director of Public Works	Council, upon recommendation of Personnel Committee	Indefinite*
Street Superintendent	Council, upon recommendation of Personnel Committee and Director of Public Works	Indefinite*

Official	Appointed By	Term
Building Inspector	Council, upon recommendation of the Personnel Committee and Director of Public Works	Indefinite*
Plumbing Inspector	Council, upon recommendation of Personnel Committee and Director of Public Works	Indefinite*
Electrical Inspector	Council, upon recommendation of Personnel Committee and Director of Public Works	Indefinite*
Librarian	Appointed by the Library Board	Indefinite*
Director of Utilities	Utility Commission	Indefinite*
Director of Parks and Recreation	Council, upon recommendation of Park and Recreation Commission and Personnel Committee	Indefinite*
EMS Coordinator	Emergency Medical Services Commission	Indefinite*
Assistant EMS Coordinator	Emergency Medical Services Commission	Indefinite*
Emergency Management Director	Mayor, subject to confirmation by Council	Indefinite
Weed Commissioner	Mayor, subject to confirmation by Council	1 year commencing May 1

Note:

* Subject to initial six-month probationary period.

Section 105-3, entitled “General provisions relating to City officials,” of the Municipal Code of the City of Mayville, is hereby repealed and replaced, to read as follows:

§ 105-3 General provisions relating to City officials.

[Added by Ord. No. 752-91 (§ 1.04 of the 1989 Code)]

- A.** Salaries and fringe benefits. The salaries and fringe benefits of City officers and employees shall, from time to time, be established by the Council in accordance with state law and the City Personnel Policy.
- B.** Powers and duties of City officials. City officials mandated under § 62.09, Wis. Stats., shall have the powers and duties prescribed by law and, except for the Mayor, shall perform such other duties as shall be required of them by the Council. Other City officials shall perform the duties prescribed by the Council. The duties of the City Administrator shall be as set forth in § 105-4 of this Chapter.
- C.** Holding multiple offices. The Council may elect to appoint the same person to two or more compatible offices.

- D.** City employee policy and procedures manual. The City Employee Policy and Procedures Manual, including respective duties and job descriptions, is adopted by reference and made a part of this Code.
- E.** Probationary period. Appointed City officials, as indicated in § 105-2 of this chapter, and all employees shall be subject to a six-month probationary period, beginning with the first day of their employment, during which period they may be removed or terminated without cause by a two-thirds majority of the members of the appointing authority.
- F.** Removal from office. All City officials, except the Police Chief, the Fire Chief, the Assistant Fire Chief, the Director of Utilities, the EMS Coordinator and the Assistant EMS Coordinator, may be removed from office for cause by a three-fourths majority of the members-elect of the Council; the other officials excepted above may be removed from office as provided by law.
- G.** Receipt of gifts and gratuities prohibited.
 - (1)** No employee or official of the City shall receive or offer to receive, directly or indirectly, any gift, gratuity or anything of value in excess of \$15 which he is not authorized to receive from any person if such person:
 - (a)** Has or is seeking to obtain contractual or other business or financial relationship with the City or the Council;
 - (b)** Conducts operations or activities which are regulated by the City or the Council; or
 - (c)** Has interests which may be substantially affected by the City or the Council.
 - (2)** The receipt of any gift, gratuity or anything of value, as denoted above, is contrary to the public policy of the City.
- H.** Disclosure of interest in legislation.
 - (1)** Any member of the Council who has a financial interest or personal interest in any proposed legislation before the Council shall disclose on the records of the Council the nature and extent of such interest.
 - (2)** Any other City official or employee who has a financial or personal interest in any proposed legislative action of the Council and who participates in discussion with or gives an official opinion or recommendation to the Council shall disclose on the records of the Council the nature and extent of such interest.^[1]

[1]

Editor's Note: Former § 105-4, Health Officer, which immediately followed this subsection, was repealed 10-14-2013 by Ord. No. 1056-2013.

Section 105-4, entitled “City Administrator,” of the Municipal Code of the City of Mayville, is hereby created to read as follows:

§ 105-4 City Administrator.

- A.** The City Administrator shall report directly to the Mayor and shall be responsible for overseeing and carrying out the day-to-day operations of the City government. While carrying out these responsibilities, the City Administrator shall have the following powers and perform the following duties:
- (1)** Oversee and manage all subordinate City officers and heads of administrative departments and their staffs, except where such duty is delegated by law exclusively to another Board, Commission, or City office, including but not limited to the following departments:
 - (a) City Clerk
 - (b) City Comptroller-Treasurer
 - (c) Director of Public Works
 - (d) Director of Parks
 - (e) Department Heads and City employees as the Mayor or Council may designate.
 - (2)** Become familiar with the duties, responsibilities, and procedures of all department heads and their departments.
 - (3)** Upon a vacancy in the office or the inability to discharge the duties of any of the foregoing department heads, carry out the duties of the office or to delegate those duties to another City officer or employee on an as-needed basis until the position can be filled.
 - (4)** Monitor and report monthly (or as often the Mayor or the Council may reasonably prescribe), to the Mayor and the Council on the performance of all administrative department heads.
 - (5)** Monitor and report monthly (or as often the Mayor or the Council may reasonably prescribe), on the performance of all City officers who serve on a contract basis, including but not limited to the following:
 - (a) City Assessor
 - (b) Building Inspector
 - (c) City Engineer
 - (d) City Attorneys
 - (e) Auditors
 - (f) Such other contractors as the Mayor or Council may designate.

- (6) Issue recommendations to the Mayor and Council for the appointment, promotion, suspension or termination of all City department heads or other City employees or contractors.
- (7) Issue recommendations for approval of the hiring of any City contractors and purchasing of equipment and supplies pursuant to the City's budget.
- (8) Attend all Council meetings and assist the Mayor and Council in the performance of their duties.
- (9) Work cooperatively with all City Boards, Commissions, and Committees and attend their meetings if requested by the Mayor, Chairperson, or the Council.
- (10) Oversee the Clerk's office to ensure that all agendas and materials prepared for all Council and Committee meetings are properly prepared and comply with Wisconsin's Open Meetings Law.
- (11) Oversee the Clerk's office in responding to records requests under Wisconsin's Public Records law.
- (12) Oversee the Clerk and the City Attorney in preparing ordinances and resolutions as needed.
- (13) Review and verify all invoices from the City's contractors and vendors and allocate the expenses to the proper department.
- (14) Research, prepare, and submit grant applications for funding for City programs.
- (15) Undertake, at the City's expense, such training, education, and research and obtain such professional memberships as needed to perform the City Administrator's duties and to keep up to date with changes in applicable local, state, and federal laws and regulations affecting the City, its officers, and employees.
- (16) Report to the Mayor and Council on updates to local, state, and federal laws and regulations affecting the City, its officers, and employees.
- (17) Ensure compliance with all applicable local, state, and federal laws and regulations.
- (18) Work closely with the Mayor and Council to develop long-term strategic plans for the City and the surrounding community.
- (19) Work closely with the Mayor and Council to promote economic development and redevelopment within the City through City programs, cultivation of partnerships with outside businesses, organizations, and individuals, assist with the creation and management of Tax Incremental Financing (TIF) districts and the negotiation and implementation of development agreements.

- (20) Manage and ensure compliance with the City's budget, including developing projections of revenue and expenditures and assist the Mayor and the Council with the annual budgeting process.
- (21) Act as a liaison and public relations officer between the City and other levels of local, County, State, and federal government, as well as with external organizations, businesses, community groups, and individuals.
- (22) Carry out and implement all policies, procedures, and programs to ensure efficient and effective local government.
- (23) Carry out such other and further duties as the Mayor or the Council may reasonably assign, except where such duty is delegated by law exclusively to another Board, Commission, or City office.

B. The City Administrator position shall be subject to the following additional conditions:

- (1) The City Administrator acknowledges the proper performance of the City Administrator's duties will generally require the City Administrator to observe normal business hours (generally, the hours during which City Hall is open to the public, currently 8:00 a.m. to 4:30 p.m., with a ½ hour lunch break Monday through Friday) but will also often require the performance of necessary services outside of normal business hours. As a salaried employee, the City Administrator shall adjust his or her schedule accordingly and will devote such additional time as is reasonably necessary for the full and proper performance of the City Administrator's duties without additional compensation. The City Administrator agrees not to hold any other employment, directly or indirectly, or to hold any investment in any firm, corporate or legal entity in violation of local, state, or federal law or the City's ethics code applicable to City employees and officers.
- (2) The City Administrator shall be entitled to a salary set by the Council, payable in regular installments at the same time and in the same manner as other City employees are paid, according to the procedures set forth in the City's Employee Handbook.
- (3) The Mayor and Council shall review and evaluate the City Administrator's performance at least annually using review criteria and procedures established by the Mayor and Council. The evaluation shall include a review of the City Administrator's progress during the prior year and expectations and goals for the following year.
- (4) The City may terminate the City Administrator's employment for any reason or for no reason and at any time subject to the procedures and additional actions

authorized or required in the City’s Employee Handbook or the City Code. The City Administrator shall provide the City with at least thirty (30) days’ written notice of his or her intent to terminate her employment.

Approved and adopted: The ____ day of August, 2024.

CITY OF MAYVILLE

BY: _____
Robert Boelk, Mayor

Attest: _____
Anastasia Gonstead, City Clerk