

ORDINANCE NO. 13-18

By: Monique Lampke

An Ordinance to enact a City of Bexley Code of Ethics and Conduct for Elected and Appointed Officials.

WHEREAS, all elected and appointed officials should conduct themselves in a manner that will instill public confidence and trust in the fair operation and integrity of Bexley's City government;

WHEREAS, the citizens and businesses of Bexley are entitled to have fair, ethical, and accountable local government;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

That the City of Bexley Code of Ethics and Conduct for Elected and Appointed Officials is hereby adopted and approved.

Therefore, this Ordinance shall be in force and effect immediately upon its passage and approval by the Mayor.

WHEREAS

Passed: _____

Lori Ann Feibel, President of Council

Attest: _____
William Harvey, Clerk of Council

Approved: _____

Ben Kessler, Mayor

First Reading: 4-24-18

Second Reading:

Third Reading:

City of Bexley Code of Ethics and Conduct for Elected and Appointed Officials

Policy Purpose

The Bexley City Council adopts this Code of Ethics and Conduct to assure that all elected and appointed officials conduct themselves in a manner that will instill public confidence and trust in the fair operation and integrity of Bexley's city government. The constant and consistent theme through these guidelines is "respect." Elected and appointed officials can experience tremendous stress in making decisions that could impact thousands of lives; however, they are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual through words and actions is the touchstone that can help guide elected and appointed officials to do the right thing in even the most difficult situations.

The ethics and conduct code guidelines are designed to describe the manner in which elected and appointed officials shall treat one another, City staff, constituents and others they come into contact with while representing the City of Bexley. This Code of Ethics and Conduct is designed to make public meetings and the process of governance run more smoothly.

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A. ETHICS

The citizens and businesses of Bexley are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Comply with both the letter and spirit of the laws and policies affecting the operation of government;
- Are independent, impartial and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless authorized by law to be confidential, in an atmosphere of respect and civility.

Therefore, members¹ shall conduct themselves in accordance with the following ethical standards:

1. **Act in the Public Interest.** Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Bexley and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before them.
2. **Comply with both the spirit and the letter of the Law and City Policy.** Members shall comply with the laws of the nation, the State of Ohio and the City of Bexley in the performance of their public duties. These laws include, but are not limited to, O.R.C. sections 102.03 and 2921.42.
3. **Conduct of Members.** The professional and personal conduct of members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members, the staff or public.
4. **Respect for Process.** Members shall perform their duties in accordance with the processes and rules of order established by applicable City ordinance, Charter, Council policy, and Board or Commission Rules and Regulations.
5. **Conduct at Public Meetings.** Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand.
6. **Decisions Based on Merits.** Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations. When making adjudicative decisions (those decisions where the member is

¹ The term "member" refers to any member of the Bexley City Council and of all Boards, Committees and Commissions established by City ordinance, Charter, or Council policy.

called upon to determine and apply facts peculiar to an individual case), members shall maintain an open mind until the conclusion of the hearing on the matter and shall base their decision on the facts presented at the hearing and the law.

7. **Conflict of Interest.** In order to assure their independence and impartiality on behalf of the common good and compliance with conflicts of interest laws, members shall use their best efforts to refrain from creating an appearance of impropriety in their actions and decisions. Members shall not use their official positions to influence government decisions in which they have (a) a material financial interest, (b) an organizational responsibility, personal relationship, or professional relationship which may give the appearance of a conflict of interest, or (c) a strong personal bias.

A councilmember who has a potential conflict of interest shall disclose the matter to the City Attorney and reasonably cooperate to analyze the potential conflict in seeking advice. The councilmember shall provide the City Attorney a copy of any written request or advice and confirm his or her participation to the advice given. In providing assistance to councilmembers, the City Attorney represents the City and not individual members.

A member of any board, committee or commission who has a potential conflict of interest shall disclose the matter to the Mayor and City Attorney and reasonably cooperate to analyze the potential conflict in seeking advice. The member of any board, committee or commission shall provide the City Attorney a copy of any written request or advice and confirm his or her participation to the advice given. In providing assistance to members, the City Attorney represents the City and not individual members.

In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and if they have a conflict of interest regarding a particular decision, shall not, once the conflict is ascertained, participate in the decision and shall not discuss or comment on the matter in any way to any person including other members unless otherwise authorized by law.

8. **Gifts and Favors.** Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office that is not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.
9. **Confidential Information.** Members must maintain the confidentiality of all written materials and verbal information provided to members which is confidential or privileged. Members shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or private interests.

10. **Advocacy.** Members shall represent the official policies or positions of the City Council, Board, Committee or Commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state that they do not represent their body or the City of Bexley, nor will they allow the inference that they do.
11. **Policy Role of Members.** Members shall respect and adhere to the structure of the Bexley City government . City Council determines the policies of the City with the advice, information and analysis provided by the Mayor, City staff, Boards, Committees and Commissions, and the public. Except as provided by the City Charter or Code, members shall not interfere with the administrative functions of the City or professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.
12. **Independence of Boards, Committees and Commissions.** Because of the value of the independent advice of Boards, Committees and Commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of Board, Committee, or Commission proceedings.
13. **Positive Work Place Environment.** Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate behavior or conduct to staff.

B. OVERVIEW OF ROLES & RESPONSIBILITIES

The roles of the Mayor, the Auditor, and City Council are as follows:

MAYOR

- Acts as the official head of the City for all ceremonial purposes and is recognized as the spokesperson for the City
- Signs documents on behalf of the City
- Serves as the chief conservator of the peace (City Charter, Section 6)
- Ensures the enforcement of ordinances (City Charter, Section 6)
- Supervises the administration and affairs of the City (City Charter, Section 6)
- Recommends to Council for its adoption such measures as he/she deems necessary or expedient (City Charter, Section 6)
- Keeps Council advised of the financial condition and needs of the City (City Charter, Section 6)
- Has a seat at Council and has the right to speak freely at City Council meetings on all matters coming before Council (City Charter, Section 12)

- Appoints the Safety Director; Service Director; City Attorney; Chief of Police; Members of Boards and Commissions; Department heads (City Charter, Section 7 & 8)
- Serves as an official delegate of the City to appropriate regional, state and national organizations
- Performs all other duties as prescribed by the Constituion and laws of the State of Ohio and as necessary for the City of Bexley.

AUDITOR

- Serves as the fiscal officer of the City (City Charter, Section 33)
- Performs the duties of Auditor outlined in the Ohio Revised Code, City Charter, and City Ordinances (City Charter, Section 33)
- Serves as Clerk of Council (City Charter, Section 33)
- Serves as Ex Officio Treasurer of the City (City Charter, Section 34)
- Has a seat at Council and has the right to speak freely at City Council regarding any issues under his or her department (City Charter, Section 12)
- Serves on the Board of Control for the City (City Charter, Section 48)
- Certifies availability of funds for contracts (City Charter, Section 59)

PRESIDENT OF COUNCIL

- Serves at the pleasure of the Council and chairs Council meetings, maintaining order, decorum, and the fair and equitable treatment of all speakers, and keeping discussion and questions focused on specific agenda item under consideration
- Recommends subcommittees as appropriate
- Leads the Council into an effective, cohesive working team

ALL COUNCILMEMBERS

All members of the City Council have equal votes. No Councilmember has more power than any other Councilmember, and all should be treated with equal respect. Councilmembers are independently elected officials, and are not under the supervision of the President of Council or of any other Councilmembers or Elected Officials.

All Councilmembers should:

- Fully participate in City Council meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others.
- Prepare in advance of Council meetings and be familiar with issues on the agenda. Stay focused and act efficiently during public meetings
- Serve as a model of leadership and civility to the community
- Maintain appropriate relationships with other Council members to promote public confidence, trust and integrity in Bexley City government (such relationships should not create a conflict of interest or give the appearance of impropriety)
- Demonstrate honesty and integrity in every action and statement

- Consider for passage ordinances or resolutions for carrying into effect any and all powers conferred upon municipalities or the inhabitants thereof by the Home Rule provision of the Constitution (City Charter, Section 24)
- Adopt an operating budget, originally prepared and submitted by the Mayor and Auditor, on or before December 31 of each year. (City Charter, Section 26)
- Performs all other duties as prescribed by the Constitution and laws of the State of Ohio. (City Charter, Section 24)

C. BEXLEY CITY COUNCIL AS A NONPARTISAN BODY

Bexley elected officials are elected to nonpartisan positions. City Councilmembers and elected officials should refrain from mentioning endorsements during Council meetings or other official City meetings or implying that Bexley City Council is a partisan position. Elected officials or candidates to elected office are encouraged to refrain from seeking or advertising partisan endorsements.

D. MEMBERS' CONDUCT WITH ONE ANOTHER

City Council, Boards, Committees, and Commissions are composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even as members may "agree to disagree" on contentious issues.

All members are expected to adhere to the highest ethical standards and demonstrate social responsibility in serving the City of Bexley, with an emphasis on candor, truthfulness and transparency.

IN PUBLIC MEETINGS

- **Practice civility and decorum in discussions and debate**
Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. Members may not make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated. However, under no circumstances shall a member attempt to wrongfully influence, bully, coerce, manipulate, or intimidate another member.
- **Honor the role of the Chair/President of Council in maintaining order**
It is the responsibility of the Chair/President of Council to keep the comments of members on track during public meetings. Members should honor efforts by the Chair/President of Council to focus discussion on current agenda items. If there is disagreement about the agenda or the Chair's or President of Council's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure. If order is not maintained during

a meeting, the Chair/President of Council may order a recess or call for a majority vote to end the meeting.

- **Demonstrate effective problem-solving approaches**
Members have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.
- **Seek Input From City Administration**
The City Administration is comprised of professional individuals who are tasked with overseeing the day-to-day application and enforcement of laws and policies. When enacting changes to laws or policies, it is incumbent on elected and appointed officials to seek feedback from the administration, and to ensure that the administration is given the opportunity to publicly address any concerns.

IN PRIVATE ENCOUNTERS

- **Continue respectful behavior in private**
The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.
- **Be aware of the insecurity of written notes, voicemail messages, texts and e-mail**
Technology allows words written or said without much forethought to be distributed wide and far. Written notes, voicemail messages, texts and e-mail should be treated as potentially "public" communication. These documents shall be maintained in accordance with the City's records retention schedule.

E. MEMBERS' CONDUCT WITH CITY STAFF

Governance of a City relies on the cooperative efforts of elected and appointed officials, who set policy, and the Mayor and City staff, who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

- **Treat all staff as professionals**
Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor or unprofessional behavior towards staff is not acceptable.
- **Do not disrupt City staff from their jobs**
Members should not disrupt City staff while they are in meetings or engrossed in performing their job functions in order to have their individual needs met. Every

effort should be made to direct questions of City staff and/or requests for additional information only to the Mayor or Department Heads when appropriate.

- **Never publicly criticize an individual employee**
Members should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the Mayor through private correspondence or conversation. Members also may not solicit anonymous opinions or input from City staff so as to create an uncomfortable conflict between a City staff member, his or her manager, and the Mayor.
- **Do not get involved in administrative functions**
Members must not attempt to influence City staff or its administration on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.
- **Do not solicit political support from staff**
Members should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace and be consistent with City political activity policies.

F. Members' Conduct with the Public

IN PUBLIC MEETINGS

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony while treating the speaker with civility. Members should be fair and equitable in allocating public hearing time to individual speakers. Members shall actively listen, ask for clarification, and avoid debate, argument, and personal attacks with the public.

IN UNOFFICIAL SETTINGS

- **Make no promises on behalf of the Council**
Members will frequently be asked to explain a Council action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of City policy and to refer to the City administration for further information. It is inappropriate to overtly or implicitly promise Council action, or to promise City staff will do something specific.
- **Remember that Bexley is a small town**

Members are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the City of Bexley.

G. Members' Conduct with Boards, Committees and Commissions

The City has established several Boards, Committees and Commissions as a means of gathering more community input on a full spectrum of concerns and perspectives. Citizens who serve on Boards, Committees and Commissions become more involved in government and serve as advisors to the Mayor and City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect as it should be remembered that they are volunteers who have chosen to serve. It should be remembered that Boards, Committees and Commissions serve the community, not individual elected officials.

The Mayor appoints individuals to serve on Boards and Commissions, and it is the responsibility of Boards, Committees and Commissions to follow policy established by their respective Boards, Committees, and Commissions, as well as any policies established by Council. Councilmembers do not have the power or right to threaten Board, Committees and Commission members with removal if they disagree about an issue. Appointment and re-appointment to a Board, Committees or Commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A Board, Committee or Commission appointment should not be used as a political "reward."

Inappropriate behavior by a Board, Committee or Commission member should be noted to the Mayor, and the Mayor should counsel the offending member. If inappropriate behavior continues, the Mayor may request the resignation of the offending member, or may bring the situation to the attention of the Council, at which time the individual may be subject to removal from the Board, Committee or Commission.

H. MEMBERS' CONDUCT WITH THE MEDIA

Members are frequently contacted by the media for background and quotes.

- **The Mayor shall serve as the official spokesperson for the City position.**
The Mayor, as executive, is designated to present and speak on the official City position. If an individual member is contacted by the media, the member should be clear about whether their comments represent the official City position or a personal viewpoint.
- **The best advice for dealing with the media is to never go "off the record"**
Most members of the media represent the highest levels of journalistic integrity and ethics, and can be trusted to keep their word. Words should be chosen carefully and cautiously.

I. SANCTIONS

Public Disruption

Members of the public who do not follow proper conduct after a warning in a public hearing may be barred from further testimony at that meeting or removed from the Council Chambers.

Inappropriate Staff Behavior

Members should refer to the Mayor any City staff who do not follow proper conduct in their dealings with members, other City staff, or the public. These employees may be disciplined in accordance with standard City procedures for such actions, as outlined in the Employee Policy Manual.

Acknowledgment of Code of Ethics and Conduct

All members who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct shall be ineligible for assignments or appointments for chair positions, as well as assignments or appointments to subcommittees, committees, and commissions.

Councilmembers Behavior and Conduct

City Councilmembers who intentionally or repeatedly do not follow the Code of Ethics and Conduct may be reprimanded, formally censured by the Council, lose committee or chair assignments, or face other sanctions, including possible removal from office in accordance with Section 40 of the Bexley City Charter, as deemed appropriate by a majority vote of Councilmembers.

This Code of Ethics and Conduct supplements Section 40 of the Bexley City Charter which states the basis for a Councilmembers' removal from office on the grounds of gross misconduct, malfeasance, misfeasance, or nonfeasance in office while serving as an elected official of the City. "Gross misconduct" is defined as an "objectionable action that is wilful and cannot be described as a mistake or lacking intent" by a Councilmember. "Malfeasance" is defined as "wrongdoing" by a Councilmember. "Misfeasance" is defined as "the wrongful exercise of lawful authority" by a Councilmember. "Nonfeasance" is defined as the "failure to perform an act that is required by law" by a Councilmember. This Code of Ethics and Conduct describes behavior that is expected of a Councilmember, the violation of which (or failure to abide by) can be considered gross misconduct, malfeasance, misfeasance, or nonfeasance in office.

Councilmembers should point out to the offending Councilmember perceived infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should be

referred to the City Attorney and President of Council (or the longest serving member of Council if the offending Councilmember is the President of Council) in private.

It is the responsibility of the President of Council (or the longest serving member of Council if the offending Councilmember is the President of Council) to initiate action if a Councilmember's behavior may warrant sanction. If no action is taken by the President (or the longest serving member of Council if the offending Councilmember is the President of Council), the alleged violation(s) can be brought up with the full Council in a public meeting. The City Council may remove a member of City Council from office by a majority vote at a regular public meeting.

If violation of the Code of Ethics and Conduct is outside of the observed behaviors by the Mayor or Councilmembers, the alleged violation should be referred to the City Attorney and President of Council (or the longest serving member of Council if the offending Councilmember is the President of Council). The President of Council (or the longest serving member of Council if the offending Councilmember is the President of Council) should ask the City Attorney to investigate the allegation and report the findings to the President (or the longest serving member of Council if the offending Councilmember is the President of Council). It is the responsibility of the President (or the longest serving member of Council if the offending Councilmember is the President of Council) to take the next appropriate action. These actions can include, but are not limited to: discussing and counseling the individual on the violations; recommending sanctions up to and including possible removal from office, to the full Council to consider in a public meeting; or forming a Council ad hoc subcommittee to review the allegation, the investigation and its findings, as well as to recommend sanction options for Council consideration. Videotaping of the complaint hearing should be used for a Council ad hoc subcommittee.

Board, Committee and Commission Members Behavior and Conduct

Members of Board, Committees, and Commissions who intentionally and repeatedly do not follow the Code of Ethics and Conduct may be reprimanded, formally censured by the Council, lose committee or chair assignments, or face other sanctions, including possible removal from a Board, Committee, or Commission, as deemed appropriate by a majority vote of Councilmembers upon recommendation by the Mayor.

Any alleged violations should be referred to the City Attorney to investigate the allegation and report the findings to the Mayor. It is the Mayor's responsibility to take the next appropriate action. These actions can include, but are not limited to: discussing and counseling the individual on the violations; requesting the resignation of the individual; recommending sanctions up to and including possible removal from the Board, Committee, and Commission, to the full Council to consider in a public meeting; or recommending the formation of a Council ad hoc subcommittee to review the allegation, the investigation and its findings, as well as to recommend sanction options for Council consideration. The City Council may remove a member of a Board, Committee and Commission by a majority vote at a regular public meeting.

J. ACKNOWLEDGEMENT (TO BE SIGNED) BY MEMBERS

I affirm that I have read, understand, and will abide by the City of Bexley Code of Ethics and Conduct for Elected and Appointed Officials.

Signature

Print Name

Date

K. Mayor and Auditor’s Voluntary Adoption of the Code of Ethics and Conduct

As independently elected officials, the Mayor and Auditor may choose to voluntarily adopt the Code of Ethics and Conduct for Elected and Appointed Officials.

Any alleged violations should be referred to the City Attorney to investigate the allegation and report the findings to the President of Council. It is the President of Council’s responsibility to take the next appropriate action. These actions can include discussing and counseling the individual on the violations; forming a Council ad hoc subcommittee to review the allegation, the investigation and its findings, as well as to recommend lawfully available sanction options, for Council consideration.

ACKNOWLEDGEMENT

I affirm that I have read, understand, and will abide by the City of Bexley Code of Ethics and Conduct for Elected and Appointed Officials.

Signature

Print Name

Date