

ORDINANCE 37-24

AN ORDINANCE OF THE CITY OF MUNCIE ESTABLISHING TITLE IV, CHAPTER 40, CHAPTER 41, CHAPTER 42 AND CHAPTER 43 OF THE CITY OF MUNCIE CODE OF ORDINANCES ENTITLED "CODE OF ETHICS"

WHEREAS, throughout the history of the City of Muncie, the public has consistently expressed concern about certain actions taken by elected officials, appointees and employees of the City of Muncie regarding the manner in which public business is transacted and the individuals/entities through which public business is transacted; and

WHEREAS, the Common Council of the City of Muncie is committed to ensuring that public business is carried out impartially, is not used for private gain, and does not involve conflicts of interest; and

WHEREAS, the Common Council of the City of Muncie believes that it is necessary to establish ethical standards for the official conduct of the elected officials, appointees and employees of the City of Muncie and persons that have a business relationship with the City of Muncie; and

WHEREAS, the Common Council of the City of Muncie adopted Resolution No. 6-23, which was later amended by Resolution No. 8-23 and Resolution No. 12-23, which established an ethics advisory committee that was responsible for establishing ethical standards for the City of Muncie and defining mechanisms to ensure that the ethical standards are followed; and

WHEREAS, since last October, the City of Muncie Ethics Advisory Committee has met on a monthly basis to establish a proposed Code of Ethics for the City of Muncie and, after careful review and consideration has finalized a proposed Code of Ethics for consideration by the Common Council of the City of Muncie;

WHEREAS, the Common Council of the City of Muncie has reviewed the proposed Code of Ethics and determined that it is in the best interest of the City of Muncie to adopt the Code of Ethics to govern certain conduct of elected officials, appointees and employees of the City of Muncie.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MUNCIE AS FOLLOWS:

Section 1: Title IV shall be added to the City of Muncie Code of Ordinances to read as follows:

TITLE IV – CODE OF ETHICS

Chapter 40: General Provisions

Sec. 40.01 – Definitions.

(A) Agency: Means every department, office, board, commission, or committee of the City.

(B) Appointed official: Means the Deputy Mayor, Personnel Director, City Controller, City Engineer/Traffic Engineer, the head of the Department of Public Works, the Superintendent of Parks and Recreation, the Chief of the Police Department, the Chief of the Fire Department, the Building Commissioner/Building Director, the head of the Department of Redevelopment or any executive branch official appointed directly by the Mayor.

(C) Confidential information: Means information obtained by reason of the official position of an elected official, officer, or employee, and that:

- An agency is prohibited from disclosing under IC 5-14-3-4(a), unless access to the records is specifically authorized by a state or federal statute or is ordered by a court under the rules of discovery;
- An agency has the discretion not to disclose under IC 5-14-3-4(b) if the appropriate agency has exercised its discretion to keep the information confidential; or
- Is not in a public record, but if it were, would be confidential.

(D) Direct Line of Supervision: A person is in the direct line of supervision of another person if that supervising person is in a position to affect the terms and conditions of the individual's employment, including making decisions about work assignments, compensation, grievances, advancement or performance evaluation.

The term does not include the responsibilities of an executive, legislative body, or fiscal body of a municipality, as provided by law, to make decisions regarding salary ordinances, budgets or personnel policies of the municipality.

The term is not limited to a direct supervisor-subordinate situation and may include situations in which the elected officer or employee serves in a supervisory capacity in the same department as the individual even though the individual does not report directly to the elected official or employee if the elected officer or employee can affect the terms and conditions of the individual's employment.

For purposes of this section, the Mayor and Deputy Mayor are not considered to be in the direct line of supervision of each employee of the City of Muncie. However, the Deputy Mayor is considered to be within the direct line of supervision of the Mayor, and each appointed head of an executive department is considered to be within the direct line of supervision of the Mayor and Deputy Mayor.

(E) Elected official: Means the Mayor, a member of the Common Council of the City of Muncie, the City Clerk or the City Judge.

(F) Employed or Employee: Means an individual who is employed by the City on a full-time, part-time, temporary, intermittent, or hourly basis. The term does not include an individual who holds only an elected office.

(G) Honorarium: Means a payment of money or anything of value, directly or indirectly, to a public servant or to any other person on his or her behalf, as consideration for a speech, address, or other oral presentation

(H) Immediate family member: Means any of the following:

- The spouse of an elected official, appointed official, officer, or employee.
- A child, stepchild, or adoptee of an elected official, appointed official, officer, or employee who is unemancipated; and less than eighteen (18) years of age.
- An individual who receives more than 50% of his or her support from an elected official, appointed official, officer, or employee.

(I) Officer: Means a natural person appointed to an office or position in any agency within the City.

(J) On duty: Means the time period when an employee or appointed official is working during his or her normal scheduled hours, during overtime hours when he or she is working, or during a period of time when the employee or appointed official is paid to be on call to perform work duties, if needed.

(K) Particular matter: Includes, but is not limited to, the following:

- an application;
- a business transaction;
- a claim;
- a contract;
- a determination;
- an enforcement proceeding;
- an investigation;
- a judicial proceeding;
- a lawsuit;
- a license;
- an economic development project; or
- a public works project.

(L) Political activity: Means activities including, but not limited to, the following:

- Demonstrating,
- Counting or recounting votes (unless part of regularly assigned duties),
- Circulating petitions,
- Soliciting votes,
- Soliciting contributions,
- Conducting or participating in opinion polls,
- Fundraising for a political campaign, party, or organization.

(M) Relative: Means a spouse, parent or stepparent, child or stepchild, brother, sister, stepbrother, stepsister, niece, nephew, aunt, uncle, daughter-in-law, son-in-law, brother-in-law, or sister-in-law. An adopted child of an individual is treated as a

natural child of the individual. The terms “brother” and “sister” include a brother or sister by half blood.

Sec. 40.02 – Gifts, food, drink, entertainment, and travel expenses.

- (A) No elected official, appointed official, officer, or employee nor their immediate family members shall knowingly solicit, accept, or receive any gift, favor, service, entertainment, food, drink, travel expenses, or registration fees from a person who has a business relationship with the elected official, appointed official, officer, or employee’s agency or is seeking to influence an action by the elected official, appointed official, officer, or employee in his or her official capacity.
- (B) The following shall not be subject to this rule:
 - (1) Gifts, favors, services, entertainment, food, drink, travel expenses, or registration fees from public agencies or institutions.
 - (2) Food or drink consumed at a public meeting to which at least twenty-five (25) individuals are invited. A meeting will be considered public if:
 - (a) The event is a reception or other gathering for public officials that is not arranged to solicit agency procurement of goods or services;
 - (b) The elected official, appointed official, officer, or employee is giving a speech or participating in a presentation in his or her official capacity; or
 - (c) The meeting has a formal educational program that the elected official, appointed official, officer, or employee is attending to assist him or her in performing official duties.
 - (3) Mementos or souvenirs of nominal value.
 - (4) Gifts, favors, services, entertainment, food, drink, or travel expenses from relatives, or a person with whom the elected official, appointed official, officer, or employee has an ongoing social relationship, so long as:
 - (a) The gifts or other items are not deducted as a business expense; and
 - (b) The gift giver is not seeking to influence an action by an elected official, appointed official, officer, or employee in that person’s official capacity.
 - (5) Political contributions that are reported in accordance with applicable law and not solicited in violation of this Section.
 - (6) Light refreshments offered to an elected official, appointed official, officer, or employee conducting official City business while the elected official, appointed official, officer, or employee is at the workplace of a person who:
 - (a) Has a business relationship; or
 - (b) Seeks to influence official action with the elected official, appointed official, officer, or employee’s agency.
 - (7) Discount and other promotional programs as follows:
 - (a) Offered through the City personnel department;
 - (b) Government employee discounts widely offered and advertised;

- (c) Public discount programs not related to the elected official, appointed official, officer, or employee's employment; or
 - (d) Offered as a benefit of a professional organization membership.
- (C) No elected official, appointed official, officer, or employee shall accept an honorarium for any activity that may be considered part of his or her official duties.
- (1) Honoraria may be accepted on behalf of the City of Muncie but must immediately be submitted to the City Controller.
 - (2) In no case may an elected official, appointed official, officer, or employee accept an honorarium from someone who has a business relationship or seeks to influence an official action by the elected official, appointed official, officer, or employee's agency.

Section 40.03 – Political activity and patronage.

- (A) An elected official, appointed official, officer, or employee is generally free to engage in political activity, subject to limits in specific situations.
- (B) No elected official, appointed official, officer, or employee shall use or permit the use of funds or property under his/her official control, direction or custody, for use in political activity.
- (C) No appointed official or employee shall engage in political activity when on duty.
- (D) Appointed officials and employees shall not solicit political contributions at any time from:
 - (1) persons or business entities whom the appointed official or employee knows to have a business relationship with the appointed official or employee's agency; or
 - (2) employees in a subordinate position to the appointed official or employee.
- (E) Elected officials shall not solicit political contributions at any time from:
 - (1) persons or business entities whom the elected official knows to have a business relationship with the City; or
 - (2) appointed officials, officers, or employees.

Section 40.04 – Appointee attendance requirements.

- (A) No appointee to a board, commission, or committee of the City shall fail to attend more than one third of the meetings of the board, commission, or committee to which the appointee is appointed within a twelve-month period.

- (B) For boards, commissions, or committees that allow members to attend meetings virtually, no appointee shall attend more than twenty percent (20%) of meetings virtually within a twelve-month period.
- (C) Exceptions: This requirement shall not be applicable to appointees serving on a board, commission, or committee of the City that has appointee attendance requirements specified in City or state codes. In such a case, appointees shall comply with the requirements specified in City or state codes.

Section 40.05 – Employment and post-employment restrictions.

- (A) An elected official, appointed official, officer, or employee is generally free to seek employment with any employer, including self-employment, after their City service ends, subject to limits in specific situations.
- (B) A former elected official, appointed official, officer, or employee may not represent an employer, client, or any person in a particular matter with the City if the former elected official, appointed official, officer, or employee personally and substantially participated in the matter as an elected official, appointed official, officer, or employee. This prohibition applies even if they receive no compensation for providing representation.
- (C) For one year after the execution of a contract described herein, a former elected official, appointed official, officer, or employee may not accept employment or compensation from an employer or client if the former elected official, appointed official, officer, or employee was:
 - (1) Engaged in the negotiation or administration of one (1) or more contracts with that employer or client on behalf of the City or an agency; and
 - (2) In a position to make a discretionary decision affecting the outcome of the negotiation.
- (D) A former elected official, appointed official, officer, or employee may not divulge confidential information acquired during their City service except as permitted or required by law or court order.
- (E) No former elected official, appointed official, officer, or employee shall disclose or use any confidential information acquired during their City service for the immediate or anticipated gain or benefit of the former elected official, appointed official, officer, employee, or any other person.

Section 40.06 – Nepotism.

- (A) Individuals who are relatives may not be employed by the City of Muncie if the employment results in one (1) relative being in the direct line of supervision of the other relative.

- (B) This section shall not apply to an individual who was employed by the City of Muncie on July 1, 2012, unless that individual has a break in employment with the City of Muncie.
- (C) If an individual is employed by the City of Muncie on the date the individual's relative begins serving a term of an elected office of the City of Muncie, the individual may maintain the individual's position or rank. However, the individual may not be promoted to a position, or be promoted to a position that is not within the merit ranks in the case of an individual who is a member of the police or fire department, if the promotion results in a violation of this section.
- (D) This section does not abrogate or affect an employment contract with the City of Muncie that an individual is a party to and is in effect on the date the individual's relative begins serving a term of an elected office of the City of Muncie.
- (E) Any and all prior ordinances governing nepotism in the City of Muncie are hereby repealed and replaced by this section.

Section 40.07 – Contracting with the City.

- (A) The City of Muncie may not enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with an individual who is an elected official, appointed official, or employee, or a business entity that is wholly or partially owned by an elected official, appointed official, or employee.
- (B) The City of Muncie may enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with an individual who is a relative of an elected official, appointed official, or employee, or a business entity that is wholly or partially owned by a relative of an elected official, appointed official, or employee only if the requirements of this subsection (c) below are satisfied and the elected official does not violate Indiana Code § 35-44.1-1-4.
- (C) The City of Muncie may enter into a contract or renew a contract with an individual or business entity described in subsection (b) above if:
 - (1) The elected official, appointed official, or employee makes a full disclosure, which must:
 - (a) Be in writing;
 - (b) Describe the contract or purchase to be made;
 - (c) Describe the relationship that the elected official, appointed official, or employee has to the individual or business entity that contracts or purchases;
 - (d) Be affirmed under penalty of perjury;
 - (e) Be submitted to the Common Council of the City of Muncie and be accepted by the Common Council in a public meeting prior to final action on the contract or purchase;

- (f) Be submitted to the Board of Public Works and Safety and be accepted by the Board of Public Works and Safety in a public meeting prior to final action on the contract or purchase; and
- (g) Be filed, not later than fifteen (15) days after final action on the contract or purchase, with:
 - i. The State Board of Accounts;
 - ii. The City Clerk; and
 - iii. The Delaware County Clerk;
- (2) The appropriate department or agency of the City:
 - (a) Makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered; or
 - (b) Makes a certified statement of the reasons why the vendor or contractor was selected.

Section 40.08 – Additional or excess compensation.

- (A) An elected official or employee of the City shall not solicit or receive compensation:
 - (1) For the sale or lease of any property or service to a person with a business relationship with the elected official or an employee's department or agency that substantially exceeds the amount that the elected official or employee would charge in the ordinary course of business; or
 - (2) For the performance of official duties other than as provided by law.

Section 40.09 – Conflicts of interest in decision-making and voting.

- (A) An elected official, appointed official, officer, or employee may not participate in any decision or vote, or any matter relating to that decision or vote, if the elected official, appointed official, officer, or employee has knowledge that any of the following has a financial interest in the outcome of the matter:
 - (1) The elected official, appointed official, officer, or employee;
 - (2) A member of the immediate family of the elected official, appointed official, officer, or employee;
 - (3) A business organization in which the elected official, appointed official, officer, or employee is serving as an officer, a director, a member, a trustee, a partner, or an employee; and/or
 - (4) Any person or organization with whom the elected official, appointed official, officer, or employee is negotiating or has an arrangement concerning prospective employment.
- (B) An appointed official, officer, or employee who identifies a potential conflict of interest shall notify the person's immediate supervisor and/or appointing authority in writing and then do either of the following:
 - (1) Seek an advisory opinion from the Muncie Ethics Commission or
 - (2) File a written disclosure statement with the Muncie Ethics Commission within seven (7) days of the identification of the potential conflict.

- (C) An elected official who identifies a potential conflict of interest shall do either of the following:
 - (1) Seek an advisory opinion from the Muncie Ethics Commission or
 - (2) File a written disclosure statement with the Muncie Ethics Commission within seven (7) days of the identification of the potential conflict.

- (D) To seek an advisory opinion from the Muncie Ethics Commission the person must file a written description detailing the nature and circumstances of the particular matter and making full disclosure of any financial interest in the matter. The commission shall:
 - (1) Direct the person's immediate supervisor and/or appointing authority to assign the particular matter to another person and implement all necessary procedures to screen the elected official, appointed official, officer, or employee from involvement in the matter; or
 - (2) Make a written determination that the interest is not so substantial that the commission considers it likely to affect the integrity of the services the City expects from the elected official, appointed official, officer, or employee.
 - (a) Such a written determination shall constitute conclusive proof that it is not a violation for the elected official, appointed official, officer, or employee who sought the advisory opinion to participate in the particular matter.
 - (b) The written determination shall be filed with the person's immediate supervisor and/or appointing authority.

- (E) A written disclosure statement filed with the Muncie Ethics Commission must:
 - (1) Include a detailed description of the conflict of interest;
 - (2) Include a description and affirmation of the screen described in subsection (D)(1) above established by the elected official, immediate supervisor, or appointing authority;
 - (3) Be signed by:
 - (a) The elected official, appointed official, officer, or employee who identifies the conflict of interest; and
 - (b) The immediate supervisor or chair of the appointing authority if the person is not an elected official.
 - (4) Include a copy of the disclosure provided to the immediate supervisor and/or appointing authority.

Section 40.10 – Conflicts of interest in contracts.

- (A) An elected official, appointed official, officer, or employee may not knowingly have a financial interest in a contract made by the City or an agency.
- (B) Exceptions: the prohibition above does not apply to an elected official, appointed official, officer, or employee who:
 - (1) Does not participate in or have contracting responsibility for the City or applicable agency; and

- (2) Files a written statement with the Muncie Ethics Commission before the contract is executed. The written statement shall include:
 - (a) An affirmation that the elected official, appointed official, officer, or employee does not participate in or have contracting responsibility for the City or applicable agency;
 - (b) An affirmation that the contract was made in compliance with all applicable purchasing ordinances and statutes;
 - (c) A statement making full disclosure of the related financial interests.

Section 40.11 – Disclosure and use of confidential information.

- (A) An elected official, officer, or employee may not divulge confidential information except as permitted or required by law or court order.
- (B) No elected official, officer, or employee shall disclose or use any confidential information for the immediate or anticipated gain or benefit of the elected official, officer, employee, or any other person.

Section 40.12 – Use of City property.

- (A) No elected official, appointed official, officer, or employee shall use or permit the use of his/her official position, funds or property under his/her official control, direction or custody, for a purpose which is primarily for the private benefit of the elected official, officer, employee or any other person.
- (B) Nothing herein shall prevent:
 - (1) the private use of property that is available on equal terms to the public generally (such as park facilities), or
 - (2) the use of property in accordance with City policy in the conduct of official business, or
 - (3) the use of vehicles and other equipment by off-duty employees in compliance with documented agency rules or policy.

Section 40.13 – Ghost employment.

- (A) An elected official, appointed official or employee of the City shall not:
 - (1) Engage in work other than the performance of official duties during work hours;
 - (2) Be assigned any duties not related to the operation of the City;
 - (3) Intentionally fail to assign an employee any duties related to the operation of the City;
 - (4) Accept any form of compensation or property from the City knowing that he/she has not been assigned any duties to perform for the entity; or
 - (5) Accept any form of compensation or property from the City for the performance of duties not related to the operation of the City.

Section 40.14 – Duty to report.

No person covered by this ethics code, who has information about a violation of this code by another, shall fail to report such violation to the Muncie Ethics Commission.

Section 40.15 – Complicity with violation by another.

No person covered by this ethics code shall induce, encourage, or aid, either directly or indirectly, anyone to violate this Ethics Code.

Chapter 41: Ethics Commission

Section 41.01 – Appointment and terms.

- (A) The City of Muncie Ethics Commission is hereby established. The Ethics Commission shall be composed of five (5) members appointed as follows:
 - (1) Two (2) members shall be appointed by the Mayor;
 - (2) Two (2) members shall be appointed by majority vote of the City Council; and
 - (3) One (1) member shall be appointed by majority vote of the mayoral and council appointees.
- (B) Except for initial appointments to the Ethics Commission, as described below, each appointment shall be for a term of three (3) years; however, a member shall serve until his or her successor is duly appointed and qualified.
- (C) A member appointed to fill a vacancy shall serve for the duration of the unexpired term.
- (D) When making initial appointments to the Ethics Commission, the Mayor shall designate one of the mayoral appointees to serve an initial term of one (1) year and the other to serve an initial term of two (2) years.
- (E) When making initial appointments to the Ethics Commission, the City Council shall designate one of the council appointees to serve an initial term of one (1) year and the other to serve an initial term of two (2) years.
- (F) No member shall serve more than two (2) consecutive terms.
 - (1) Partial terms of less than two (2) years duration shall not count as a term for the purposes of determining term limits.
 - (2) No person who has served two (2) consecutive terms shall be eligible for a subsequent appointment unless at least three (3) years have passed since the end of their most recent term on the Ethics Commission.

Section 41.02 – Qualifications.

- (A) No more than one (1) mayoral appointee may be affiliated with a single political party.
- (B) No more than one (1) council appointee may be affiliated with a single political party.
- (C) Appointee political affiliations will be determined as specified in IC 36-1-8-10.
- (D) At no time may a member be:
 - (1) An elected official, appointed official, or employee of the City of Muncie;
 - (2) A member of any other City board, commission, or committee;
 - (3) An officer or employee of any political party; however, this shall not include an individual who is elected or appointed to serve as a delegate to a party convention;
 - (4) A person who is an owner, officer, director, or partner of a business organization which has been paid by the City and/or any of its agencies an aggregate amount exceeding \$300,000.00 in the previous calendar year.
- (E) At all times a member must be a resident of the City of Muncie.
- (F) A member may be removed only for cause and only upon a two-thirds majority vote of the City Council.

Section 41.03 – Jurisdiction.

- (A) The Ethics Commission shall have jurisdiction over current and former elected officials, appointed officials, individuals appointed to boards and/or commission of the City of Muncie, and officers and employees of the City of Muncie with respect to the interpretation and enforcement of the City of Muncie Code of Ethics. However, a complaint or investigation before the Ethics Commission may be stayed if the matter is subject to pending litigation or the Commission has been notified by law enforcement that a criminal investigation is underway.
- (B) The Ethics Commission may only consider complaints that are filed within two (2) years of the suspected violation of the Code of Ethics, unless the complainant did not know or had no reason to know of the suspected violation within the two (2) year period, in which case the Ethics Commission may consider a complaint filed within one (1) year of the complainant obtaining knowledge of the suspected violation.

Section 41.04 – Authority.

The Ethics Commission may do any of the following upon a majority vote of its Members:

- (1) Issue an advisory opinion upon request as to the application of the Code of Ethics to a specific situation.
- (2) Initiate and conduct investigations of complaints alleging violations of the Code of Ethics.
- (3) Dismiss complaints alleging violations of the Code of Ethics without investigation.
- (4) Following an investigation, issue public findings and conclusions on alleged violations of the Code of Ethics.
- (5) Refer alleged violations of the Code of Ethics to an appropriate law enforcement agency.
- (6) Upon a finding of a violation of the Code of Ethics, refer the matter to Corporation Counsel for enforcement proceedings in accordance with applicable law.
- (7) Compel the production of documents and other evidence.
- (8) Compel the attendance and testimony of witnesses.
- (9) Adopt rules to implement the Code of Ethics and provide for its enforcement.
- (10) Prepare and/or provide any forms or other documents necessary for compliance with the Code of Ethics.
- (11) Retain legal counsel and/or request the assistance of the Corporation Counsel and/or Legal Counsel for the Common Council to investigate a complaint alleging violations of the Code of Ethics and to issue findings and conclusions.
- (12) Inform individuals or entities of a failure to file any document required by the Code of Ethics.
- (13) Receive, review and file any document required by the Code of Ethics.
- (14) Recommend appropriate corrective action and/or sanctions for a violation of the Code of Ethics.

Section 41.05 – Records and meetings.

Generally, all meetings of the Ethics Commission shall be open to the public provided, however, that all complaints submitted to the Ethics Commission may be initially reviewed in executive session pursuant to Indiana Code § 5-15-1.5-6.1(b)(2)(6). All records received or created by the Ethics Commission are subject to the Indiana Access to Public Records Act and shall be either disclosed or withheld in accordance therewith.

Chapter 42: Enforcement

Section 42.01 – Complaint procedure.

- (A) Any individual may file a complaint. All complaints shall be in writing and signed by the complainant. The complaints shall state the nature of the alleged violation, the date, time and place of each occurrence, and the name of the individual charged with the violation (hereinafter referred to as “respondent”). All complaints shall be

filed with the Ethics Commission in the manner prescribed by the Ethics Commission. If the complaint alleges a criminal act, the complaint shall be forwarded to an appropriate law enforcement agency.

- (B) All complaints shall be assigned a file number that will be used to identify the complaint. The respondent shall be provided with a copy of the complaint within seven (7) days of filing. All complaints shall be referred to and identified solely by complaint number unless or until the Ethics Commission approves further investigation of the complaint at a public meeting.
- (C) Within 15 days of receipt of a complaint, the Ethics Commission shall meet in executive session to receive information regarding the complaint and discuss whether the complaint warrants further investigation.
- (D) Within 30 days of the executive session held in accordance with subsection (2) above, the Ethics Commission shall hold a public meeting for the purpose of taking action on the complaint. At the public meeting, the Ethics Commission shall take one or more of the following actions by majority vote:
 - (1) Determine that the allegations are frivolous or inconsequential and dismiss the complaint;
 - (2) Determine that the allegations have been handled appropriately by the appropriate public official and/or department of the City and dismiss the complaint;
 - (3) If the violation alleged in the complaint is undisputed, issue recommendations for corrective action.
 - (4) Determine that the complaint does not allege sufficient facts to determine whether there is a violation of this Code of Ethics and dismiss the complaint;
 - (5) Forward a copy of the complaint to the appropriate elected official, appointed official, and/or department of the City of Muncie and either stay the complaint proceedings pending further action or dismiss the complaint;
 - (6) Determine that further investigation is necessary and stay the complaint proceedings until further information is gathered; or
 - (7) Determine that probable cause exists to support a violation of the Code of Ethics and schedule a public hearing on the matter.

The respondent shall be notified within 10 days of the decision of the Ethics Commission.

- (E) If the Ethics Commission determines that further investigation is necessary, it shall determine the scope of the investigation and seek legal counsel to assist if necessary.

- (F) If a hearing is scheduled on a complaint, the respondent shall be provided copies of all evidence in the possession of the Ethics Commission. In addition, the respondent shall have the right to be represented by counsel, conduct discovery, call witnesses, cross-examine witnesses and introduce exhibits.

Section 42.02 – Decision.

- (A) If the Ethics Commission, by majority vote, determines after the hearing that the respondent has not violated the Code of Ethics, the Ethics Commission shall dismiss the complaint and state in writing the reasons for the dismissal.
- (B) If the Ethics Commission determines, by majority vote, by a preponderance of the evidence, that the respondent committed a violation of the Code of Ethics, the Ethics Commission shall issue a report of its findings and conclusions and make any recommendations for corrective action and/or refer the matter to Corporation Counsel for enforcement proceedings in accordance with applicable law.
- (C) If a majority of the Ethics Commission is unable to determine whether a violation of the Code of Ethics has occurred, the complaint shall be dismissed.
- (D) The Ethics Commission may, by majority vote, resolve a complaint through an agreed settlement signed by the respondent, a majority of the Ethics Commission and, if applicable, the individual in charge of the department in which the respondent is employed or the Mayor.

Section 42.03 – Violations.

If the respondent is found to have violated the Code of Ethics after enforcement proceedings in accordance with applicable law, the respondent may be fined an amount determined by City Judge in accordance with applicable law.

Section 42.04 – Whistleblower protection.

No person shall be threatened or retaliated against for filing a complaint with the Ethics Commission, providing or offering to provide information to the Ethics Commission, or testifying or offering to testify at a hearing of the Ethics Commission. A violation of this section shall be considered a violation of the Code of Ethics and subject to the enforcement provisions set forth herein.

Chapter 43: Training and Reporting

Section 43.01 – Training.

- (A) All elected officials, appointed officials, officers, and employees covered by the Code of Ethics shall be properly trained in complying with the Code of Ethics. Such training shall also include a review of the criminal offenses against public

administration (IC 35-44-1), the Access to Public Records Act (IC 5-14-1.5), and the Open Door Law (IC 5-14-3).

- (B) The Corporation Counsel shall prepare and administer the training required by this section with the assistance of the Personnel Director. The training provided shall be appropriate for the unique requirements of elected officials, appointed officials, officers and employees.
- (C) The Corporation Counsel and Personnel Director shall arrange a training schedule that allows everyone covered by the training requirement to receive training expeditiously.
- (D) The Corporation Counsel and Personnel Director shall endeavor to schedule training so that all newly elected officials, appointed officials, officers or employees are able to receive the training prior to assuming their responsibilities.
- (E) All newly elected officials, appointed officials, officers, and employees shall complete ethics training no later than six (6) weeks following the beginning of their term, appointment date, or hire date as appropriate.
- (F) All elected officials, appointed officials, officers, and employees shall complete ethics training at least every two (2) years during their tenure with the City of Muncie.
- (G) The City's Personnel Department shall maintain records documenting the compliance of elected officials, appointed officials, officers, and employees with these requirements.

Section 43.02 – Transparency Portal.

- (A) The Ethics Commission shall oversee the maintenance and operation of a website, known as the “City of Muncie Transparency Portal,” that will make ethics-related documents and information readily accessible to the public.
- (B) Documents and information to be provided via the Transparency Portal shall include:
 - (1) The Code of Ethics,
 - (2) List of Ethics Commission members,
 - (3) Conflict-of-interest forms filed with the Ethics Commission, and/or City Clerk, and/or State of Indiana,
 - (4) Advisory opinions issued by the Ethics Commission,
 - (5) Public documents related to complaints filed with the Ethics Commission,
 - (6) Annual reports of the Ethics Commission,
 - (7) Documentation verifying compliance with training requirements by elected officials, appointed officials, officers, and employees, and

- (8) Public documents related to purchases of \$5,000 or more by the City of Muncie or any of its boards, commissions, or other dependent bodies, including but not limited to:
 - Executed contracts,
 - Requests for bids,
 - Requests for proposals,
 - Invitations to quote, and
 - Documents received from potential suppliers presenting their final bid, proposal, or quote in response to a request for bids, request for proposals, or invitation to quote.

(C) The Ethics Commission may make other documents accessible via the Transparency Portal as deemed beneficial to the public interest.

Section 43.03 – Annual Reporting.

No later than 45 days after the end of each calendar year, the Ethics Commission shall provide an annual report to the City Council. The report shall include:

- (1) A summary of the complaints received by the Ethics Commission in the past year and the disposition of each,
- (2) A summary of the advisory opinions, if any, issued by the Ethics Commission in the past year,
- (3) Any recommended changes to the Code of Ethics, and
- (4) Any other information of benefit to the City Council or public.

Section 2. That this Ordinance shall be in full force and effect from and after its passage by the Common Council and its approval by the Mayor of the City of Muncie, Indiana, and such publication as may be required by law.

Adopted by the Common Council of the City of Muncie, Indiana, this ____ day of _____, _____.

	Yeas	Nays	Abstain	Absent
Jeff Green	_____	_____	_____	_____
Nora Powell	_____	_____	_____	_____
Brandon Garrett	_____	_____	_____	_____
Sara Gullion	_____	_____	_____	_____
Jerry Dishman	_____	_____	_____	_____
Harold Mason	_____	_____	_____	_____
Dale Basham	_____	_____	_____	_____
Ro Selvey	_____	_____	_____	_____
William McIntosh, Sr.	_____	_____	_____	_____

President, Common Council

Presented by me to the Mayor for his approval, this ____ day of ____, 2024.

Belinda Munson, Muncie City Clerk

The above ordinance is approved/vetoed by me this ____ day of ____, 2024

Dan Ridenour, Mayor of the City of Muncie

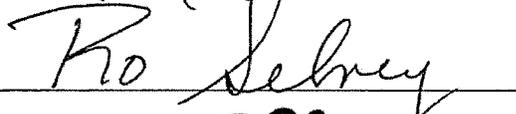
ATTEST:

Belinda Munson, Muncie City Clerk

This ordinance is proposed by Council Member:



This ordinance is proposed by Council Member:



This ordinance is approved in form by legal counsel: