

**CITY COMMISSION
CITY OF MOUNT PLEASANT**

Isabella County, Michigan

ORDINANCE NO. 1041

**AN ORDINANCE TO AMEND SECTIONS 30.04, 30.05, 30.06, 30.07, 30.08, 30.09,
30.10, 30.11, 30.12, 30.13, 30.15, AND 31.01, AND TO ADD SECTION 30.16 OF THE
MOUNT PLEASANT CITY CODE REGARDING COMMISSION MEETINGS**

The City of Mount Pleasant Ordains:

Section 1. Amendment. Sections 30.04, 30.05, 30.06, 30.07, 30.08, 30.09, 30.10, 30.11, 30.13, 30.15, and 31.01 of the Mount Pleasant City Code are amended to read as follows:

§ 30.04 AGENDA.

(A) All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the Commission as part of the agenda shall be delivered to the City Manager five working days preceding the Commission meeting. The City Manager, after consultation with the Mayor and/or Vice Mayor, shall prepare the agenda. The City Manager shall furnish Commissioner, the Mayor, the City Clerk and the City Attorney with a copy of the agenda prior to the Commission meeting and as far in advance of the Commission meeting as time for preparation will permit. None of the foregoing matters shall be presented to the Commission by administrative officials except those of an urgent nature, and the same, when so presented, shall have the written approval of the City Manager before presentation. During the Commission meeting, items may be added to the agenda or removed from the agenda with a two-thirds vote of the entire Commission then serving.

(B) On a periodic basis, the Commission shall, by resolution, approve the form of the agenda for Commission meetings.

§ 30.05 CALL TO ORDER.

The presiding officer shall take the chair precisely at the hour appointed for the meeting, and shall immediately call the Commission to order. In the absence of the Mayor and the Vice Mayor, the City Clerk shall call the Commission to order, whereupon a temporary chairperson shall be elected by the Commissioners present. Upon the arrival of the Mayor or Vice Mayor, the temporary chairperson shall immediately relinquish the chair upon the conclusion of the business immediately before the Commission.

§ 30.06 ROLL CALL.

Before proceeding with the business of the Commission, the City Clerk shall call the roll of the Commissioners, and the names of those present shall be entered in the minutes.

§ 30.07 RULES OF DEBATE.

(A) The presiding officer may move, second and debate from the chair, subject only to such limitations of debate as are herein imposed on all Commissioners, and shall not be deprived of any of the rights and privileges of a Commissioner by reason of his/her acting as the presiding officer.

(B) Every Commissioner desiring to speak shall address the chair and, upon recognition of the presiding officer, shall confine himself/herself to the question under debate, avoiding all personalities and indecorous language.

(C) A Commissioner, once recognized, shall not be interrupted when speaking unless it be to call him/her to order, or as herein otherwise provided. If a Commissioner, while speaking, be called to order, he/she shall cease speaking until the question of order be determined, and, if in order, he/she shall be permitted to proceed.

(D) The Commissioner moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.

(E) A motion to reconsider any action taken by the Commission may be made only on the day such action was taken. It may be made either immediately during the same session or at a recessed or adjourned session thereof. Such motion shall be made by one of the prevailing side, but may be seconded by any Commissioner, and may be made at any time and have precedence over all other motions or while a Commissioner has the floor. The question may then be debated, if applicable.

(F) A motion to rescind any action taken by the Commission may be made by any Commissioner if the original motion has not been acted up on or the action or parts of the action can be undone. If the motion to rescind is added to the agenda during the Commission meeting (no prior notice given), such motion shall require a 2/3 vote of the entire Commission to pass.

(G) A Commissioner may request, through the presiding officer, the privilege of having an abstract of his/her statement on any subject under consideration by the Commission entered in the minutes. If the Commission consents thereto, such statement shall be entered in the minutes.

§ 30.08 ADDRESSING THE COMMISSION.

(A) *Prior permission not required.* Any person may address the Commission during a Commission meeting without securing the prior permission of the Commission or the presiding officer, subject to the following:

(1) Interested parties or their authorized representatives may address the Commission by written communication with respect to any matter by delivering the City Manager a copy of the written communication before the end of the regular business day on the day of the Commission meeting.

(2) Interested persons or their authorized representatives may address the Commission during a Commission meeting by oral communications. The Commission, by resolution, shall designate the time during each meeting when the public shall have an opportunity to speak.

(B) *Addressing the Commission after motion made.* After a motion is made by the Commission, no person shall address the Commission without first securing the permission of the Commission to do so.

(C) *Manner of addressing the Commission; time limit.* Each person addressing the Commission shall stand, give his/her name and address in an audible tone of voice for the record, and unless further time is granted by the Commission, shall limit his/her address to five minutes during each public opportunity to speak, with the exception that such individual may also address the Commission a second time for an additional three minutes during each public opportunity to speak. In addition, the Commission may, by motion, grant an individual the right to address the Commission for a longer period of time. All remarks shall be addressed to the Commission as a body and not to any individual Commissioner thereof. No person, other than the Commission and the person having the floor, shall be permitted to enter into any discussion, either directly or through a Commissioner, without the permission of the presiding officer. No questions shall be asked a Commissioner except through the presiding officer.

§ 30.09 VOTING UPON QUESTIONS.

All votes shall be taken by "yeas" and "nays" except for nominations to fill the Mayor and the Vice Mayor positions. The vote shall be so entered upon the journal as to show the names of those voting in the affirmative and in the negative. If the vote is unanimous, the record need merely so state. The failure or refusal of any Commissioner to vote shall be considered an affirmative vote. When voting on nominations to fill the Mayor and Vice Mayor positions, the vote shall be cast by naming one of the persons nominated for the position. The position shall be filled by the nominee who receives at least a majority of the votes of the full Commission.

§ 30.10 DECORUM.

(A) While the Commission is in session the Commissioners shall preserve order and decorum, and a Commissioner shall neither by conversation or otherwise delay or interrupt the proceedings or the peace of the Commission nor disturb any Commissioner while speaking or refuse to obey the orders of the Commission or its presiding officer, except as otherwise herein provided.

(B) Any person making personal, impertinent or slanderous remarks, or who shall become boisterous while addressing the Commission, shall be forthwith, by the presiding officer, barred from further audience before the Commission, unless permission to continue be granted by a majority vote of the Commission.

§ 30.11 SPECIAL AND STANDING COMMITTEES.

(A) *Standing committees.* The Commission may create one or more standing committees of its members. Each standing committee shall perform such duties, investigate, have charge of and report upon such matters as may be properly referred to the standing committee.

(B) *Special committees.* The Commission may create such special committees as the Commission may determine from time to time. Each special committee shall perform such duties, investigate, have charge of and report upon such matters as may be properly referred to it.

(C) *Appointments.* The Mayor shall appoint the members of each standing committee and/or special committee.

(D) Any reports of standing or special committees must be supported by a majority of the committee.

§ 30.12 PROTESTS FILED ON COMMISSION ACTIONS.

Any Commissioner shall have the right to have the reasons for his/her dissent from, or protest against, any action of the Commission entered on the minutes.

§ 30.13 ORDINANCES, RESOLUTIONS AND CONTRACTS.

(A) No ordinance shall be prepared for presentation to the Commission unless ordered by a majority vote of the Commission or prepared on request of the City Manager.

(B) All ordinances, resolutions and contract documents shall, before presentation to the Commission, have been approved as to form and legality by the City Attorney and shall have been examined and approved for administration by the City Manager where there are substantive matters of administration involved.

(C) Ordinances, resolutions and other matters or subjects requiring action by the Commission shall be introduced and sponsored by a Commissioner; otherwise, they shall not be considered.

(D) Nothing in this section shall be deemed to alter the procedures established for initiative and referendum as set forth in the City Charter, Article VI.

§ 30.15 OTHER RULES TO GOVERN.

The rules of parliamentary practice, comprised in Robert's Rules of Order (latest edition), shall govern the meetings of the Commission in all cases to which they are applicable, provided they are not in conflict with the Charter, this chapter or resolutions adopted pursuant to this chapter.

§ 31.01 NOMINATING PETITIONS.

All nominating petitions to fill the elective offices provided under Article IV of the Charter of the City of Mount Pleasant shall be filed with the City Clerk within the time limitation set for filing petitions as provided by the laws of the State.

Section 2. Addition. Section 30.16 of the Mount Pleasant City Code is added to read as follows:

§ 30.16 ETHICS POLICY.

(A) The City's leaders are to advance common interests rather than their own interests and are to be wholly accountable to the people. This section does not comprehensively define ethical behavior but instead defines minimal, enforceable ethical standards for City leaders.

(B) This section applies to Commissioners and to members of boards, commissions, and other bodies appointed by the Mayor or the Commission¹ and the Housing Commission.²

¹ Currently, this includes the Airport Advisory Board, Board of Review, Brownfield Redevelopment Authority Board of Directors, Building Authority Board, Building, Fire and Sanitary Sewer Board of Appeals, Downtown Development Authority Board of Directors,

(C) The following definitions shall apply to terms used in this Section.

(1) *Anyone* means any person or entity.

(2) *Confidential information* means information in whatever form obtained by an official during the course of his or her service to the City that is not available to or may be exempted from disclosure to members of the general public under the FOIA or another applicable law, rule, regulation, or court order. (An official may disclose to anyone how to make a FOIA request or how to challenge a denial of a FOIA request.)

(3) *Conflict of interest* means one or more of the following situations:

(a) A decision to be made by the City body on which the official serves or, in the case of a Commissioner, a decision to be made by any City body, could result in private gain for the official, a member of the official's household, or a member of the official's immediate family residing outside the official's household.

(b) A decision to be made by the City body on which the official serves could result in private gain for (i) anyone the official represents as an attorney, accountant, or other professional, (ii) an entity for which the official serves as an officer, director or, for a limited liability company or partnership, as a member, or (iii) unless the interest is held in a manner so that the official does not directly control the number of shares, portion of the ownership interest, or its value, an entity in which the official either owns more than 10% of the total stock or other ownership interest in the entity, or has an interest totaling \$50,000 or more in value.³ Subsection (i) does not apply to an attorney, accountant, or other professional whose client is only a lender on a project.

(4) *Entity* means an association, business corporation, general partnership, governmental agency or unit, limited liability company, limited partnership, non-profit corporation, individual's assumed name, or any other legal person or identity other than an individual.

(5) *FOIA* means Michigan's Freedom of Information Act, 1976 PA 442, as amended, MCL 15.231 *et seq.*

(6) *Official* means a person to whom this section applies as stated in Subsection (B).

(7) *Official's household* means those persons residing in the same dwelling unit as the official.

(8) *Official's immediate family* means the spouse, children, siblings or parents of the official.

(9) *Private gain* means any direct financial benefit that is different than any financial benefit members of the general public or a significant group of the general public would gain in similar circumstances.⁴

(10) *Sole proprietor* means (i) the sole owner of a business that is not formed as an entity, or (ii) the sole holder of any equity or ownership interest in a business entity.

(D) The following standards shall apply to all officials in their service to the City.

Downtown Development Board, Economic Development Corporation Board of Directors, Fire and Police Retirement Board, Historic District Commission, Local Development Finance Authority Board of Directors, Local Officials Compensation Commission, Parks and Recreation Commission, Planning Commission, Tax Increment Finance Authority Board of Directors, and Zoning Board of Appeals.

² The City Manager appoints the Housing Commissioners, §32.02, but the City Commission may remove them upon the recommendation of the City Manager, MCL 125.654(3).

³ For example, in a mutual fund, blind trust, or other arrangement where the official has no control over the purchase or sale of individual stocks, the make-up of a portfolio, etc.

⁴ Gain that is or could be realized by the City is not private gain because it inures to the benefit of the general public that the City serves. Gain that is or could be realized by a group, such as businesses in a certain area, also is not private gain. There is also no private gain or conflict of interest where state law requires a board to be comprised, at least in part, of representatives of businesses, neighborhoods, entities, or areas. However, if a particular decision or action would affect a single individual, family or business, private gain may result.

(1) An official shall comply with all charter provisions, this Code, laws, rules, regulations, articles of incorporation, bylaws, procedures and policies applicable to (i) the official's office, (ii) the body on which the official serves, or (iii) the meetings the official attends.

(2) An official shall not (i) disclose to anyone any confidential information before it is authorized for release to the general public or (ii) use confidential information for private gain.

(3) Representation.

(a) An official shall not represent his or her personal views as those of the City or the body on which the official serves.

(b) An official shall not make any statements or answer any questions on behalf of the City or the body on which the official serves unless expressly authorized by the body on which the official serves, the Commission, or, for officials other than a Commissioner, the City Manager.

(c) An official shall not represent that he or she has any authority separate from that of the body on which he or she serves.⁵

(d) An official shall act within the authority granted to the body on which he or she serves and shall respect the roles of other officials and bodies.⁶

(e) An official shall not interfere with the City's administrative functions or the duties of City staff and shall not impair the City staff's ability to implement policy decisions made by any official body.

(4) Except to the extent they would be available to others in similar circumstances,⁷ an official shall not use or attempt to use City personnel resources, property, funds, or information for private gain.

(5) An official shall not solicit or accept a gift or a loan of money, goods, services, or other things of value which may tend or may reasonably appear to be intended to influence the manner in which the official performs his or her duties.

(6) Private Gain.

(a) An official shall not vote, act upon, participate in any discussion or, except as provided below, engage in any communications regarding any matter from which he or she knowingly may realize any private gain or regarding which he or she has a conflict of interest.

(b) An official shall not represent any individual or entity before a body on which he or she serves. A Commissioner shall not represent any individual or entity before anybody subject to this section. However this does not limit any official's ability to appeal his or her residential (or, if the official is the sole proprietor of a business, that business') property tax valuation or to address zoning or construction matters involving his or her residence (or, if the official is the sole proprietor of a business, such matters involving that business).

(7) An official shall not display any favor for or disfavor of anyone in the discharge of the official's duties. City actions and decisions shall be made fairly and impartially. An official shall treat persons appearing before a body with courtesy and respect. However, this does not prevent an official from stating his or her views or advocating regarding matters under consideration or communications to that public body.

⁵ Except for specific statutory or other authority granted to specific officers of a body, unless the body otherwise designates, it is the body on which the official serves, not an individual official, that has governmental authority.

⁶ Because it is directly elected by the people, the Commission has the overall policy making and oversight role for the City. Other bodies serve roles that advise or recommend to the Commission and exercise authority granted by the Commission or by applicable laws, ordinances, rules and regulations.

⁷ For example, assistance by economic development personnel, the rental of City-owned park facilities, and the mayor's performance of a wedding.

(E) It is the intent of these provisions to encourage officials to disclose potential concerns and seek advice as needed or desired to ensure compliance. Accordingly, this section shall be administered and enforced as follows:

(1) Any official, other than a Commissioner, in an effort to comply with this section, may seek the advice of the City Manager and, with the City Manager's consent, the City attorney, regarding any upcoming proceeding, action or decision, or regarding any potential situation addressed by this section. A Commissioner, in an effort to comply with this section, may directly seek the advice of the City attorney. If an official (i) does so prior to any violation of this section, (ii) truthfully and fully discloses all information requested by the City Manager or City attorney, and (iii) complies with the City Manager's or City attorney's advice and direction, he or she shall not be subject to sanctions as detailed in subsection (5).

(2) Disclosure.

(a) Before any discussion on the matter by the body on which he or she serves, an official shall disclose to that body any situation that could appear to some to violate this section and disclose any guidance the official received as provided by subsection (1). The official shall or shall not participate in the consideration of the matter as provided in the City Manager's or City attorney's opinion. If the official is not to participate, he or she shall leave the dais or other place where members of the body sit during its meetings to return after the body completes its consideration of that matter.

(b) If, regardless of compliance with this section, an official strongly believes that, due to a close family or friendship relationship, he or she would find it very difficult to objectively participate in a matter before the body on which the official serves, the official may ask remaining members of the body on which the official serves to excuse the official from his or her duty to otherwise participate in the discussion and action on that matter. The remainder of the body, by a majority vote, may excuse the official's participation. An official shall have no duty to request the body to excuse the official's participation, the body shall have no duty to grant such a request, and no other persons shall have any right under this subsection (b).

(3) If questions are first raised at a meeting about the applicability of this provision to an official and a matter pending at that meeting, the highest ranking City staff member at the meeting shall address the issue. The meeting may be recessed to seek advice from the City Manager or City attorney or consideration of the matter may be postponed to a later meeting.

(4) Procedure.

(a) Anyone may contact the chair of the body on which an official serves or the City Manager with any allegations or concerns that an official has violated this section. If the chair of a body is contacted, the chair shall contact the City Manager. For an issue regarding a Commissioner, the Mayor or any Commissioner may contact the City attorney without first contacting the City Manager.

(b) The City Manager or, with the City Manager's consent, the chair of the affected body, may contact the City attorney for an opinion regarding the allegations or concerns. For an issue regarding a Commissioner, the City attorney shall be contacted.

(c) The City Manager or the City attorney may ask the affected official and others for information the City Manager or the City attorney think is relevant. All officials shall promptly and fully comply with such requests. For an issue regarding a Commissioner, the City attorney shall conduct the inquiry.

(d) After obtaining the information, the City Manager or City attorney shall opine as to whether or not a violation of this section occurred. (For an issue regarding a Commissioner, the City attorney shall render the opinion.) If she or he concludes a violation occurred, she or he shall explain any needed and optional actions to be taken and include any information and considerations that may be helpful in addressing the situation. The affected body, the Commission, and City staff and officers shall act upon that opinion as they deem appropriate.

(e) If the City Manager or City attorney concludes no violation of this section occurred, she or he shall notify the complaining party and such City staff and officers as she or he deem appropriate.

(f) If anyone, including the complainant, another official, City staff, or anyone else actually affected by the situation, believes the City Manager's or City attorney's opinion is incorrect or the accompanying information is incorrect, that person may address the Commission regarding the issue. Any action by the Commission is final.

(g) If an official violated this section and that violation may have affected the outcome of any action, the affected body shall reconsider the decision or action as directed by the City Manager or City attorney.

(5) In addition to any other results,⁸ the Commission may impose one or more of the following sanctions for a violation of this section. In deciding which, if any, of these sanctions to impose, the Commission may consider such factors as: (i) the severity of the violation, (ii) its intentionality,⁹ (iii) its effects,¹⁰ (iv) whether it was the violating official's first or a repeated violation of this section, (v) whether the violating official acknowledged the violation and intends future compliance with this section, and (vi) other factors the Commission may deem pertinent under the circumstances.

(a) A violation of this section constitutes misconduct, misfeasance and malfeasance in office. For all appointed officials it therefore can be grounds for removal from office.

(b) Upon the affirmative vote of either a majority of its members either the Commission may publicly censure an official for a violation of this section. The official who is the subject of the body's action shall not participate in the consideration or decision on the censure.

(c) If the violation of this section included the disclosure of confidential information, the Commission may decide to withhold confidential information from the violating official. If the confidential information was information presented during a closed session, the Commission may bar the violating official from participating in one or more future closed sessions. A Commissioner who is the subject of the action shall not participate in its consideration or vote on it.

(d) If the violation of this section was willful or knowing and the City is sued, fined, or suffers another loss as a result, the Commission may seek indemnification or contribution from the violating official that could include amounts paid in any settlement, judgment, fine or other penalty, plus the costs (e.g., attorneys' fees, expert costs, discovery costs, etc.) to defend any such action. A Commissioner who is the subject of the action shall not participate in its consideration or vote on it.

Section 3. Publication and Effective Date. The City Clerk shall cause to be published a notice of adoption of this ordinance within 10 days of the date of its adoption. This ordinance shall take effect 30 days after its adoption.

Allison Lents, Mayor

Jeremy Howard, City Clerk

Introduced: September 24, 2018
Adopted: October 8, 2018
Published: October 17, 2018
Effective: November 7, 2018

⁸ A violation of this section is a violation of the City Code any may also be a violation of other applicable charter provisions, law, rules or regulations. Actions may also be taken and remedies sought for the violation of the other applicable requirements.

⁹ That is, whether it was deliberate, unintentional, an oversight, an error in judgment, etc.

¹⁰ That is, whether it had policy, legal or other consequences, whether a decision needed to be reconsidered, whether it resulted in cost to the City, etc.