

BILL NO. 18-49

AN ORDINANCE AMENDING ARTICLE III. OFFICERS AND EMPLOYEES. CHAPTER 2. ADMINISTRATION OF THE CODE OF ORDINANCES OF THE CITY OF LEE'S SUMMIT BY REPEALING SECTION 2-61 AND ENACTING TEN NEW SECTIONS RELATING TO A CODE OF ETHICS, FINANCIAL DISCLOSURE AND CODE OF CONDUCT.

WHEREAS, on April 5, 2017 the voters of the City of Lee's Summit approved QUESTION NO. 3 requiring that the Council promulgate and adopt an Ethics Code governing the conduct of the City Council; and,

WHEREAS, the Council wishes to adopt an Ethics Code that satisfies this Charter provision and that also remains consistent with certain statutes of the State of Missouri; and,

WHEREAS, the Council wishes to re-adopt and re-number the financial disclosure requirements previously adopted; and,

WHEREAS, in an effort to guide Councilmembers on issues related to decorum the Council wishes to adopt a Code of Conduct.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That Section 2-61. Disclosure of potential conflicts of interests of the Code of Ordinances of the City of Lee's Summit be and the same is hereby repealed.

SECTION 2. That Article III. Officers and Employees. Chapter 2. Administration of the Code of Ordinances of the City of Lee's Summit, Missouri be amended by enacting a new Division 1. Ethics, Financial Reporting, and Code of Conduct consisting of three new subdivisions and ten new sections to read as follows:

ARTICLE III. - OFFICERS AND EMPLOYEES

DIVISION 1. – ETHICS, FINANCIAL REPORTING, AND CODE OF CONDUCT

A. Code of Ethics.

Sec. 2-61. Policy Declaration.

The citizens and visitors of the City expect public officials and employees to be independent, impartial and accountable. Included is the expectation that public officials and employees conduct themselves in a manner that will preserve public confidence in and respect for the City. To that end public officials and employees shall insure that:

- a. Government decisions and policy be made through appropriate channels of the governmental structure;
- b. Public office or employment is not used for personal gain; and,
- c. Public officers and employee shall avoid actual conflicts of interest at all times and endeavor to avoid even the appearance of conflict of interest when practicable.

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Sec. 2-62. Definitions:

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adversary proceedings: Any proceedings where a record may be kept and maintained as a public record at the request of either party by a court reporter, notary public or other person authorized to keep such record by law or by any rule or regulation of the agency conducting the hearing; or from which an appeal may be taken directly or indirectly, or any proceeding from the decision of which any party must be granted, on request, a hearing de novo; or any arbitration proceeding; or a proceeding of the personnel review board of the City.

Appointed official: The City Manager, City Attorney, and the City Prosecutor.

Business entity: A corporation, association, firm, partnership, proprietorship, or other business entity of any kind or character.

Business with which he/she is associated: Any sole proprietorship owned by himself/herself or his/her spouse, any partnership or joint venture in which he/she or his/her spouse is a partner, any corporation in which he/she is an officer or director or creditor or any trust in which he/she or his/her spouse or dependent child is a beneficiary or holder of a reversionary interest of the corpus of the trust.

City Councilmember: Any person elected or appointed from each of the four respective districts of the City as described in section 3.2 of the Charter of the City of Lee's Summit, Missouri.

Confidential information: All information whether transmitted orally or in writing which is of such a nature that it is not, at that time, a matter of public record or public knowledge.

Elected official: A City Councilmember and the Mayor as further defined herein.

Malfeasance in office: is the commission of an unlawful act, done in an official capacity, which affects the performance of official duties.

Mayor: Any person elected by the voters of the City as described in section 4.2 of the Charter of the City of Lee's Summit, Missouri.

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Official authority or Official influence: Any use of City resources to coerce, attempt to coerce or otherwise affect the behavior of another or to endorse any person or proposition; in such a way as to give the appearance of governmental sanction.

Public body: Any agency, board, body, commission, committee, department or office of the City of Lee's Summit Missouri.

Substantial interest or substantial financial interest: Ownership by the individual, or his/her spouse, directly or indirectly, of any business entity or interest, either as an owner or creditor, or the receipt by an individual or his/her spouse of a salary, gratuity or other compensation or remuneration from any individual, partnership, organization or association or one (1) who has acted as a guarantor or who has executed any credit instrument on behalf of any such individual, partnership, organization or association.

Substantial personal or private interest in any measure or bill: Any interest in a measure or bill which results from a substantial interest or substantial financial interest in a business entity.

(See RSMo. [105.450](#))

Sec. 2-63. Prohibited acts by elected officials, appointed officials, employees, etc. – Generally

- a. No City officer, committee, authority, board or commission member, or employee shall:
1. Use official authority or official influence for the purpose of interfering with or affecting the result of an election to a Lee's Summit city office or any ballot proposition. Except that nothing herein shall be construed to prohibit any elected official from exercising his or her right as a private citizen to express opinions or vote in any municipal election.
 2. Directly or indirectly coerce or command a City employee to pay, lend, or contribute anything of value to a committee, organization, agency or person for the political or electoral purposes of any candidate for Lee's Summit city office or any ballot proposition.

(See [Section 14.3](#) of the Charter, Second Amended, for the City of Lee's Summit.)

- b. No elected or appointed official or employee of the City shall:
1. Act or refrain from acting in any capacity in which he/she is lawfully empowered to act as such an official or employee by reason of any payment, offer to pay, promise to pay or receipt of anything of actual pecuniary value other than compensation to be paid by the City.
 2. Use confidential information obtained in the course of or by reason of his/her employment or official capacity in any manner with intent to result in financial gain for himself/herself, his/her spouse, his/her dependent child in his/her custody, or any business with which he/she is associated.

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3. Disclose confidential information obtained in the course of or by reason of his/her employment or official capacity in any manner with intent to result in financial gain for himself/herself or any other person.
4. With respect to any contract or transaction which is or may be the subject of an official act or action of the City, without proper legal authorization or official authority, disclose confidential information concerning the property, real estate, personnel affairs, or legal affairs of the City to any individual or entity outside of the City Council or City staff, or use such information to advance the financial or other private interest of himself or others.
5. Use his/her decision making authority for the purpose of obtaining a financial gain which materially enriches himself/herself, his/her spouse or dependent children by acting or refraining from acting for the purpose of coercing or extorting from another anything of actual pecuniary value.
6. Offer, promote, or advocate for a political appointment in exchange for anything of value to the City, to himself/herself, or to any other person

(See RSMo. [105.452](#))

Sec. 2-64. Prohibitions - Generally.

- a. No elected or appointed official or employee of the City shall:
 1. Perform any service for the City for receipt or payment of any compensation, other than of the compensation provided for the performance of his/her official duties, in excess of five hundred dollars (\$500.00) per transaction or five thousand dollars (\$5,000.00) per annum, except on transactions made pursuant to an award on a contract let or sale made after public notice and competitive bidding, provided that the bid or offer is the lowest received.
 2. Sell, rent or lease any property to the City and receive consideration therefor in excess of five hundred dollars (\$500.00) per transaction or five thousand dollars (\$5,000.00) per year unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received.
 3. Participate in any matter, directly or indirectly, in which he attempts to influence any decision of the City when he/she knows the result of such decision may be the acceptance of the performance of a service or the sale, rental, or lease of any property to the City for consideration in excess of five hundred dollars (\$500.00) value per transaction or five thousand dollars (\$5,000.00) value per annum to him/her, to his/her spouse, to a dependent child in his/her custody or to any business with which he/she is associated unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property

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other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received.

4. Perform any services or actions during the time of his/her office or employment for any consideration from the City or from any person, to him/her, to his/her spouse, to a dependent child in his/her custody, or to any business with which he/she is associated, other than the compensation provided for the performance of his/her official duties, by which service or action he/she attempts to influence a decision of the City.
5. Perform any service for consideration, during one (1) year after termination of his/her office or employment, by which performance he/she attempts to influence a decision of the City, except that this provision shall not be construed to prohibit any person from performing such service and receiving compensation therefor, in any adversary proceeding or in the preparation or filing of any public document.
6. Perform any service for any consideration for any person after termination of his/her office or employment in relation to any case, decision, proceeding or application with respect to which he/she was directly concerned or in which he/she personally participated during the period of his service or employment.

(See RSMo. [105.454](#))

b. In addition to the other requirements of this article, no member of the City Council or the Mayor shall:

1. Perform any service for the City or any agency of the City for any consideration other than the compensation provided for the performance of his/her official duties.
2. Sell, rent or lease any property to the City for consideration in excess of five hundred dollars (\$500.00) per transaction or five thousand dollars (\$5,000.00) per annum unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received.
3. Attempt, for any compensation other than the compensation provided for the performance of his/her official duties, to influence the decision of the City on any matter; except that, this provision shall not be construed to prohibit such person from participating for compensation in the preparation or filing of any public document or conference thereon.
4. No sole proprietorship, partnership, joint venture or corporation in which any member of the City Council is the sole proprietor, partner, co-participant or owner of in excess of ten (10) percent of the outstanding shares of any class of stock, or of an interest having a value of ten thousand dollars (\$10,000.00) or more, or the receipt by an individual, the individual's spouse or the individual's dependent children, whether

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singularly or collectively, of a salary, gratuity, or other compensation or remuneration of five thousand dollars (\$5,000.00), or more, per year from any individual, partnership, organization, or association within any calendar year or more shall:

5. Perform any service for the City for any consideration in excess of five hundred dollars (\$500.00) per transaction or Five Thousand Dollars (\$5,000.00) per annum unless the transaction is made pursuant to an award on a contract let after public notice and competitive bidding, provided that the bid or offer accepted is the lowest received.
6. Sell, rent or lease any property to the City where the consideration is in excess of five hundred dollars (\$500.00) per transaction or five thousand dollars (\$5,000.00) per annum unless the transaction is made pursuant to an award on a contract let or a sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received.

(See RSMo. [105.458](#))

Sec. 2-65. - Procedures.

If any employee or appointed official violates any provision of section 2-62 through 2-64 inclusive, or provisions of the City of Lee's Summit Charter whether willfully or unintentionally, he/she shall be subject to discipline or other action as allowed by the employment policies of the City or otherwise provided by law. If any elected official violates any provision of sections 2-62 through 2-64, inclusive, or provisions of the Charter of the City of Lee's Summit whether willfully or unintentionally, that official is subject to the procedures and penalties provided by Section 3.15 City of Lee's Summit Charter and set out in the section, below:

- a. By a motion at a City Council meeting, any Councilmember may request the initiation of an investigation of the facts and circumstances regarding an alleged violation of any provision of sections 2-62 through 2-64, inclusive, by any elected official. Such motion shall include details as to the identity of the elected official in question and the facts and circumstances supporting the movant's allegation of such violation.
- b. If such motion is adopted by a two-thirds majority of the entire council including the Mayor, then the Mayor shall initiate the investigation with an appropriate internal or external investigator after such investigator is approved by the City Council. However, if the Mayor is the subject of the matter of the investigation then the Mayor Pro Tempore shall initiate the investigation with an internal or external investigator as described above. Upon conclusion of the investigation, the investigator shall present the findings at a public meeting.
- c. After hearing the report, any Councilmember may, by motion, request that a public hearing be held on the matter. If such motion is adopted by a two-thirds majority of the entire council including the Mayor, a public hearing shall be held as provided by Chapter 536 RSMo. and the matter shall be considered a contested case.
- d. If, upon hearing or following a waiver of hearing, the Council determines that a violation has occurred, the Council may, by resolution take such disciplinary action as provided

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by section 2-66 below. Additionally, the Council may refer such matter to appropriate law enforcement agencies as it may deem appropriate upon the affirmative vote of two-thirds of the entire Council including the Mayor.

Sec. 2-66. Penalties.

- a. Generally. Violation of the Charter or this Code of Ethics may be grounds for censure or removal of office. The Council shall not impose any discipline upon a member or the Mayor unless such sanctions receive an affirmative vote of two-thirds of the members of the entire Council, including the Mayor. See [Section 3.15](#) of the Charter, Second Amended, for the City of Lee's Summit.
- b. Forfeiture. Notwithstanding subsection A. above, any City officer or employee who willfully conceals a substantial financial interest or interest in any party transacting business with the City, or in the subject matter of any City transaction or who otherwise willfully violates the requirements of section 14.1 of the City Charter shall be guilty of malfeasance in office or position and shall forfeit the office or position. Any Councilmember or the Mayor found, by a two-thirds vote of the entire Council, to have willfully concealed a substantial financial interest or interest in any party transacting business with the City, or in the subject matter of any City transaction or who otherwise is found to have willfully violated the requirements of this section 14.1 of the City Charter shall be guilty of malfeasance in office and shall immediately forfeit the office. See [Section 3.7](#) and [Section 14.1](#) of the Charter, Second Amended, for the City of Lee's Summit.

Sec. 2-67. Malicious Complaints.

If, in the opinion of a City Councilmember or the Mayor, the complaining party was motivated by malice or reason contrary to the spirit of any law on which such complaint was based, in filing the complaint without just cause, he/she may, by motion, request that the same be reported to the appropriate law enforcement authorities. Any person who knowingly files a complaint without just cause, or with malice, having been found guilty or having pleaded guilty in a Court of competent jurisdiction shall be guilty of a misdemeanor punishable under section 1-13(A) of this code or as otherwise provided by law.

Secs. 2-68 – 2-74 - Reserved.

B. Financial Reporting

2-75. Disclosure of potential conflicts of interest.

- a. *Declaration of Policy.* The proper operation of municipal government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and, that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a procedure for disclosure by certain officials and employees of private financial or other interests in matters affecting the City.

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- b. *Conflicts of Interest.* The Mayor or any Councilmember who has any direct or indirect substantial personal or private interest, as defined by Section 105.450(11), (12), Missouri Revised Statutes, in any bill shall disclose on the records of the City Council the nature of his/her interest and shall disqualify himself/herself from voting on or participating in any matters relating to this interest. Any elected or appointed officer, employee, or member of any committee, authority board or commission of the City who has a direct or indirect substantial interest or who has any direct or indirect substantial financial interest, as defined by Section 105.450(11), (12), Missouri Revised Statutes, in any bill shall disclose on the records of the City Council the nature of his/her interest and shall disqualify himself/herself from voting on or participating in any matters relating to this interest.
- c. *Disclosure Statements.* Each elected official, the City Manager, the Assistant City Manager, the City Attorney, the Director of Finance, the City Clerk and the City Purchasing Agent shall disclose the following information by May 1 if any such transactions were engaged in during the previous calendar year:
1. For such person, and all persons within the first degree of consanguinity or affinity of such person, the date and the identities of the parties to each transaction with a total value in excess of five hundred dollars (\$500.00), if any that such person had with the City of Lee's Summit, other than compensation received as an elected official or as an employee or payment of any tax, fee or penalty due to the City of Lee's Summit, and other than transfers for no consideration to the City of Lee's Summit; and,
 2. The date and the identities of the parties to each transaction known to the person with a total value in excess of five hundred dollars (\$500.00), if any, that any business entity in which such person had a substantial interest, as defined by Section 105.450(11) RSMo, had with the City of Lee's Summit, other than payment of any tax, fee or penalty due to the City of Lee's Summit or transactions involving payment for providing utility service to the City of Lee's Summit, and other than transfers for no consideration to the City of Lee's Summit.
 3. The City Manager, the Assistant City Manager(s), the City Attorney, the Director of Finance, the City Clerk and the City Purchasing Agent also shall disclose by May 1 the following information for the previous calendar year:
 - i. The name and address of each of the employers of such person from whom income of one thousand dollars (\$1,000.00) or more was received during the year covered by the statement;
 - ii. The name and address of each sole proprietorship that he/she owned; the name, address and the general nature of the business conducted of each general partnership and joint venture in which he/she was a partner or participant; the name and address of each partner or co-participant for each partnership or joint venture unless such names and addresses are filed by the partnership or joint venture with the Secretary of

State; the name, address and general nature of the business conducted of any closely held corporation or limited partnership in which the person owned ten percent or more of any class of the outstanding stock or limited partnership units; and, the name or any publicly traded corporation or limited partnership that is listed on a regulated stock exchange or automated quotation system in which the person owned two percent or more of any class of outstanding stock, limited partnership units or other equity interests;

- iii. The name and address of each corporation for which such person served in the capacity of a director, officer or receiver.
- d. Filing of Statements. The statements shall be filed with the City Clerk and the Ethics Commission. The statements shall be available for public inspection and copying during normal business hours.
- e. When Filed. The financial disclosure statements shall be filed at the following times, but no person is required to file more than one financial disclosure statement in any calendar year.
 - i. Each person who is subject to this ordinance shall file the statement within thirty (30) days of such appointment or employment.
 - ii. Every other person required to file a financial disclosure statement shall file the statement annually not later than May 1 and the statement shall cover the calendar year ending the immediately preceding December 31; provided that any member of the City Council may supplement the financial disclosure statement to report additional interests acquired after December 31 of the covered year until the date of filing of the financial disclosure statement.

Sec 2-76 through Sec. 2-79 reserved.

C. Code of Conduct

Sec. 2-80. Policy Declaration.

Councils are composed of individuals with diverse backgrounds, personalities, values, opinions, and goals. All have chosen to serve in public office in order to preserve, protect and enhance the present and the future of the community. In all cases, this common goal should be acknowledged even as Council may "agree to disagree" on contentious issues and with an understanding that a diversity of opinion makes us stronger. In order to maintain public confidence in the legislative and decision making process it is necessary to insure that the Council conducts business openly and in a transparent manner.

Sec. 2-81. Conduct in Public Meetings.

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Members of the Council and the Mayor should at all times:

- a. Practice civility, professionalism 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. This does not allow, however, anyone to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments. No shouting or physical actions that could be construed as threatening will be tolerated. Councilmembers and the Mayor should conduct themselves in a professional manner at all times.
- b. Honor the role of the Mayor/Chair in maintaining order. It is the responsibility of the Mayor/Chair to keep the comments of all persons, focused during public meetings. Councilmembers should honor efforts by the Mayor/Chair to focus discussions on current agenda items. If there is disagreement about the agenda or the Mayor's/Chair's actions in refraining staff, public or Councilmembers from speaking, those objections should be voiced politely and with reason.
- c. Avoid personal comments that could offend other Councilmembers. The Mayor will maintain order of this discussion.
- d. Demonstrate effective problem-solving approaches. Councilmembers have a public forum to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.
- e. Be punctual and keep comments relative to topics discussed. Councilmembers have made a commitment to attend meetings and partake in discussions. Therefore, it is important that Councilmembers be punctual and that meetings start on time. It is equally important that discussions on issues be relative to the topic at hand to allow adequate time to fully discussed scheduled issues.

SECTION 3. That the City Clerk shall cause a copy of this ordinance to be provided to each candidate for elected City office upon filing of a declaration of candidacy with the office of the City Clerk.

SECTION 4. That this ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this _____ day of _____, 2018.

Mayor Randall L. Rhoads

ATTEST:

City Clerk *Trisha Fowler Arcuri*

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APPROVED by the Mayor of said city this _____ day of _____, 2018.

Mayor Randall L. Rhoads

ATTEST:

City Clerk Trisha Fowler Arcuri

APPROVED AS TO FORM:

City Attorney Brian W. Head