

## CITY OF ALBION ORDINANCE 2018-08

### AN ORDINANCE TO PROVIDE A CODE OF ETHICS FOR THE CITY COUNCIL AND TO CREATE SECTION 1-28 OF THE ALBION CODE OF ORDINANCES

FINDINGS AND PURPOSE: The Albion City Council recognizes that the citizens of Albion are entitled to have fair, ethical, and accountable local government that has earned the public's full confidence for integrity. The Albion City Council further recognizes that the effective functioning of democratic government requires that public officials comply with all aspects of the law affecting the operations of government, be impartial and fair in their judgment and actions, use the public office for public good, and conduct process openly in an atmosphere of respect and civility. To that end, it is recommended that the City of Albion adopted the following ethics ordinance.

THAT THE CODE OF ORDINANCES, CITY OF ALBION, MICHIGAN, IS HEREBY AMENDED BY ADDING SECTION 1-28, WHICH READS AS FOLLOWS:

Section 1:

CHAPTER 1, SECTION 1-28: ETHICS

1-28:

- A. **Acting in the Public Interest**: Members of the City Council will work for the common good of the people of Albion and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims, and transactions coming before the Albion City Council.
- B. **Compliance with the Law**: Members of the City Council shall comply with the laws of the United States, the State of Michigan, and the City of Albion in the performance of their public duties.
- C. **Respect for Process**: The City Council shall perform their duties in accordance with the processes and rules of order established by the City Council which govern the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by the City Staff.
- D. **Preparation for Public Meetings**: Members of the City Council shall prepare themselves for council meetings and public issues.
- E. **Full Disclosure**: A City Council member, in the performance of their public duties, shall not act upon any matter in which they have a direct or indirect financial interest, or where they have a legal or fiduciary duty to another

organization or entity or personal relationship that may give the appearance of a conflict of interest, without disclosing the full nature and extent of the interest to the other members of the City Council at a public meeting. Such disclosure shall be made before the time to perform their duty.

- F. **Confidential Information**: City Council members shall respect the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither divulge to an unauthorized person confidential information acquired in the course of their duties in advance of the time prescribed for its authorized release to the public without proper legal authorization, nor use such information to advance their personal, financial or other private interests.
- G. **Public Resources**: Public resources, including city staff time, equipment, supplies, and facilities, not available to the public in general shall not be used for the benefit of the public and not for a council member's personal or private use.
- H. **Representation of Private Interests**: A City Council member shall represent the official policies or positions of the City Council to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, City Council members shall neither state nor imply that they represent the opinions or positions of the City Council of the City of Albion.
- I. **Policy Role of Council**: Members of the City Council shall respect and adhere to the Council-manager City of Albion form of government as provided in the City of Albion Charter. Members of the City Council shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement City Council policy decisions.
- J. **Independence of Boards and Commissions**: Members of the City council shall, except when the council member is a member of the subordinate public body, limit their participation in the proceedings of subordinate boards, committees, and commissions to the communication of requested information and providing factual information relevant to the discussion at hand and shall not otherwise attempt to unduly influence the deliberations or outcomes of the proceedings.
- K. **Positive Workplace**: Under no circumstances shall a member of the City Council, either in public or private, intimidate, humiliate, or otherwise abuse a City employee.
- L. **Continuing Training**: A biennial workshop shall be held after the general election in every odd numbered year not later than 60 days after the general



election for training to be provided by the city attorney, the Michigan Municipal League or similar entity, or any other entity or group retained by the city regarding the role and duties of the council members and the requirements of this ordinance. Unless excused by a majority vote of the remaining council member, all council members shall attend this workshop, or a make-up session as soon as may be practicably scheduled.

M. **Affirmation**: At the first meeting immediately following a general election, newly elected council members and the mayor shall sign an affirmation shall sign a statement affirming that they have read and understood this ordinance. In the event of the appointment of councilperson or mayor to a partial term, said affirmation shall be signed at the next regularly scheduled meeting of the council.

N. **Enforcement and Penalties**: All City Councilmembers and the Mayor shall have the primary responsibility to assure that they understand and meet the standards set forth in this ordinance and that the public can continue to have full confidence in the integrity of government. The disciplinary procedure shall be as follows:

- i. A councilmember shall intervene when the council member learns of actions of another council member that appear in violation of this ordinance. Upon acquiring reasonable suspicion of a violation of this ordinance, a council member may request that the mayor meet personally with the council member to notify them of the suspected misconduct and attempt to resolve the issue. In the event the Mayor is suspected of violating this ordinance, said meeting may be held with any two members of council.
- ii. In the event the meeting as described in subsection (N)(i) does not satisfactorily resolve the issue, or in the event the suspected council member has repeatedly violated this ordinance, or if the violation is viewed to be especially serious, any three council members may call for a public hearing before council to determine whether the alleged violation has occurred, and if so, what sanctions, if any should be imposed. Said public hearing shall occur within 30 days of the date of the alleged violation.
- iii. If it has been determined to hold a public hearing as provided in subsection (N)(ii), all council members shall be provided with a written summary of the facts giving rise to the alleged violation at least 10 days prior to the public hearing.
- iv. City staff required to participate in the public hearing, including but not limited to the city attorney and city clerk, shall not be

subject to any discipline, sanction, or any other adverse action whatsoever as a result of the performance of their duties as required by this ordinance.

- v. The mayor, or if the mayor is the subject of the alleged violation, the mayor pro tem, shall preside over the public hearing.
- vi. The presiding council member may determine whether the evidence presented against the council member, or in defense of the council member, is relevant to the allegation(s) against the council member and may preclude its consideration. The presiding council member shall seek guidance from the city attorney regarding hearing procedural and evidentiary issues.
- vii. Witnesses shall be sworn by the city clerk or the clerk's designee is the designee is legally authorized to administer oaths.
- viii. The council as a body, and the accused council member, may each be entitled to have an attorney present at the hearing for consultation. However, there shall be no right for attorneys to make opening or closing statements, questions witnesses, present evidence, or offer arguments.
- ix. The rules of evidence and civil procedure shall not apply to public hearings held under this ordinance.
- x. Any member of council may ask questions of witnesses.
- xi. The accused council member may present witnesses in their defense after the presiding council member has presented all evidence supporting a violation. The accused council member shall be provided 10 minutes to provide closing comments at the conclusion of evidence.
- xii. At the conclusion of the presentation of evidence or the closing comments of the accused council member, whichever is later, council members, excluding the accused council member, shall vote to determine whether or not there is a violation by a super majority vote.
- xiii. The council may impose sanctions on a council member who violates this article. After a majority vote finding a violation of this article, a second majority vote shall determine what sanctions, if any, shall be imposed.



- xiv. Sanctions may include reprimand, formal censure, a civil fine, loss of committee assignment, restrictions on budget or travel, and a request to the governor for removal from office in the manner and for the causes provided by law.
- xv. Sanctions shall be imposed based upon the perceived severity level of the violation, with the following guidance:
  - 1. For a level 1 violation, penalty options include a verbal reprimand, a civil fine not to exceed \$100.00, or an additional and/or greater sanction as may be determined by a majority vote of council. A violation of the following subsections of section 1-28 shall minimally result in a level 1 violation: A, C, D, E, K, or L;
  - 2. For a Level 2 violation, penalty options shall include censure, which shall be defined as a formal council resolution for specified conduct, a civil fine not to exceed \$300.00 and/or a greater sanction as may be determined appropriate by the majority of council. A violation of the following subsections of section 1-28 shall minimally result in a level 2 violation: B, F, G, H, I, J;
  - 3. For a level 3 violation, the penalty options shall include censure, a civil fine not to exceed \$500.00, and/or a request to the governor for removal. A third level 1 violation, or a second level 2 violation within 6 months of a prior violation found by the council.

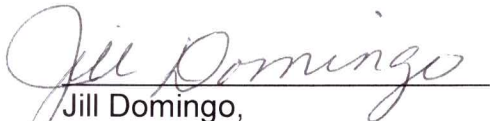
O. **Appellate Review**. If ordered to pay a civil penalty, an appeal may be taken in the form of a trial de novo in the 10<sup>th</sup> District Court for the County of Calhoun, which shall hear the case in accordance with the Michigan Court Rules. This appeal must be taken within 21 days of the decision by the City Council. If a council member is disciplined or removed from office that council member may seek any other available remedies which exists at law or in equity.

Section 2: Validity and Severability. The provisions of this Ordinance are severable and the invalidity of any phrase, clause or part of this Ordinance shall not affect the validity or effectiveness of the remainder of the Ordinance.

This Ordinance shall take effect December 14, 2018 after publication.


First Reading:  
October 15, 2018

Ayes 6  
Nays 1 (Barnes)  
Absent 0

  
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Jill Domingo,  
City Clerk

Second Reading & Adoption:  
November 19, 2018

Ayes 6  
Nays 0  
Absent 1 (Barnes)

  
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Garrett Brown,  
Mayor