

ORDINANCE NO. 21-XX

AN ORDINANCE ADDING CHAPTER 1.18 TO THE OLATHE MUNICIPAL CODE PERTAINING TO THE CODE OF ETHICS FOR THE CITY OF OLATHE, KANSAS; PROVIDING PROCEDURES FOR INVESTIGATING ALLEGED VIOLATIONS OF THE CODE OF ETHICS; AND REPEALING THE EXISTING ETHICS POLICY A-3 (RESOLUTIONS 93-1122 AND 98-1068).

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: Section 1.18.010 is hereby added to the Olathe Municipal Code and shall read as follows:

“1.18.010 Code of Ethics

(A) The purpose of the Code of Ethics is to ensure that the Governing Body, appointed officials, employees, and volunteers are aware that they must behave in way that instills confidence in the integrity of the government. The proper operation of government requires that the Governing Body, appointed officials, employees, and volunteers are impartial and do not use their positions for personal gain.

(B) The Governing Body, appointed officials, employees, and volunteers of the City of Olathe will:

(1) Conduct themselves with honor and integrity.

(2) Maintain public confidence in the performance of their duties.

(3) Use time wisely to maximize the value so that the public receive full value for each tax dollar spent.

(4) Seek no favors, nor use the position for private gain, nor use confidential information or government equipment or supplies to secure a profit or enhance wealth.

(5) Ensure that all City expenditures are in the interest of the City and only for appropriate City business.

(6) Refrain from participating in decisions or being involved in transactions in which they or their family members have an interest and make full disclosures of potential conflict of interests when involvement cannot be avoided.

(7) Address public concerns and needs, striving to provide the highest level of service with equity, without favoritism or discrimination.

(8) Cooperate with all City the Governing Body, appointed officials, and employees to perform the operations of government without violating any ordinances or laws by encroaching upon the powers, functions, and duties of any Member of the Governing Body, appointed official, or employee, as provided by law.

(9) Refrain from representing or advocating for any private interests before any commission, board, council, or agency of the City when they have any official City decision-making duties related to the private interest.

(10) Not solicit or accept gifts, favors or anything of value for themselves, family members, or others, which is intended or may have the appearance or effect of influencing the performance of official duties; and not lobby or attempt to influence the Governing Body, appointed officials, employees, and volunteers in the performance of their duties by any means which are not a part of the official's, employee's, or volunteer's authorized duties. This provision does not apply to a) an award publicly presented in recognition of public service, b) gifts conferred on account of kinship or other personal, professional, or business relationships independent of the official status of the receiver, c) gifts of trivial monetary value involving no substantial risk of undermining official impartiality. A gift which is a meal, any food or beverage items intended to be consumed by the recipient, or which has a monetary value of less than \$100 is presumed to be of trivial monetary value.

(C) The Governing Body, appointed officials, and employees may be offered honorariums because of speaking engagements or conducting seminars. A reasonable fee for time spent in preparation or participation may be accepted if the City is not also compensating the official or employee for such time. If the City is paying the official or employee for the time, then the honorarium must be rejected.

(D) Any gift not authorized by this section must be returned to the donor or transmitted to the City Treasurer or turned over to the City to be used by the City or to be sold, with the proceeds of such sale deposited into the general fund of the City. The City Treasurer for the City shall be notified within seven (7) days of the receipt of any gift not authorized by this subsection."

SECTION TWO: Section 1.18.020 is hereby added to the Olathe Municipal Code and shall read as follows:

"1.18.020 Code of Ethics – Definitions and Applicability

(A) For the purposes of this Chapter, unless the context requires otherwise:

(1) "Governing Body" means the City Council and Mayor, as described in Charter Ordinance 76, and any amendments thereto.

(2) "Appointed official" means a member of an "Appointive Body" as described in City Council Policy CC-5, and any amendments thereto.

(3) "Employee" means any person who works for the City for compensation.

(4) "Volunteer" means a person who works for the City without compensation and is not an appointed official as defined in this section.

(B) Allegations of a violation of Section 1.18.010, and any amendments thereto, against a member of the Governing Body, any appointed officials, the City Manager, the City Auditor, or a Municipal Judge will be investigated in the manner described in O.M.C. 1.18.030, and any amendments thereto.

(C) Allegations of a violation of Section 1.18.010, and any amendments thereto against any City employee or volunteer will be investigated by the City Manager or designee in accordance with the City of Olathe Employee Handbook."

SECTION THREE: Section 1.18.030 is hereby added to the Olathe Municipal Code and shall read as follows:

"1.18.030 Governing Body Procedure

The Governing Body must dispose of any allegation of an Ethics violations against a Member of the Governing Body, appointed official, the City Manager, the City Auditor, or a Municipal Judge. In all cases, due process rights of any complainant and anyone accused of an ethics violation will be respected.

(A) Any allegation of an Ethics violation against the Governing Body, appointed official, the City Manager, the City Auditor, or a Municipal Judge must be submitted in writing as a formal complaint to the attention of the City Attorney. Such complaint must be accompanied by a signed and notarized affidavit that the complainant is making their complaint under penalty of perjury as provided in K.S.A. 53-601, and any amendments thereto.

(B) The City Attorney must stamp the complaint with the date on which it is received. The City Attorney must provide a copy of the complaint to the person against whom the complaint is made, and at the same time provide a copy of the complaint to the City Manager and each member of the Governing Body. If the complaint is made against a member of the Governing Body, such Governing Body member must recuse

themselves from voting on any actions of the Governing Body pertaining to such complaint.

(C) The members of the Governing Body (who are not recused) must individually review the complaint prior to the next council meeting. If the complaint is frivolous or groundless on its face, or if it fails to state a complaint of an ethics violation under this Ordinance, the Governing Body may dismiss the complaint and direct the City Attorney to notify the complainant of such dismissal in writing.

(D) If the Governing Body does not dismiss the complaint, the person against whom the complaint is made will have seven (7) days to provide to the City Attorney a written response to the complaint.

(E) At the next regularly scheduled Governing Body meeting after the response is received, the City Attorney must provide the complaint and response, if any, to the Governing Body. The Governing Body, by majority vote, must: (1) dismiss the complaint; (2) determine that further investigation of the complaint is necessary; or (3) take such action as Governing Body determines appropriate.

(F) If the Governing Body determines that further investigation is necessary, the Governing Body will direct the City Attorney to solicit proposals from attorneys or law firms with relevant investigatory experience to be considered by the Governing Body to be appointed as an investigator into the complaint. All such proposals must include including 1) a summary of relevant investigatory experience, 2) the requested compensation per hour for all persons involved in the investigation, and 3) the approximate time to conduct the investigation. At the next regularly scheduled Governing Body meeting, the City Attorney must provide a list of all proposals received so that they may be considered by the Governing Body for appointment as the investigator. The Governing Body will review the proposals then appoint an investigator based on the proposal deemed at the sole discretion of the Governing Body to be the most qualified proposer. More than one investigator may be hired by the Governing Body to conduct the investigation. The Governing Body may also direct the City Attorney to provide additional parameters than described herein for the investigator to conduct the investigation and report the findings of the investigation back to the Governing Body as the Governing Body deems appropriate, including, but not limited to, engaging a 3rd-party reviewer to review the investigator's report and make recommendations to the Governing Body based upon such report.

(G) The Investigator will conduct a personal interview with the complainant to determine the facts and issues involved. After the complainant interview, the Investigator will conduct a personal interview with the person who is the subject of the complaint. The Investigator may interview other individuals if the Investigator determines it is necessary. The City Attorney must provide the Investigator access to all City records which are relevant to the investigation except for any confidential records. Both the complainant and the subject of the complaint will be allowed to review all written documents submitted by the other party, including all City records requested and

provided by the City to the investigator which are relevant to the investigation. The subject of the complaint will be given the opportunity to respond, in writing, to all allegations made by the complainant. The Investigator must complete the investigation within four (4) weeks of the date the Governing Body hired the Investigator.

(H) The Investigator must provide a written report to the Governing Body at the conclusion of the investigation. The report must include, but not be limited to:

- (1) A summary of the complaint;
- (2) An explanation of the scope of the investigation;
- (3) A description of information which was relevant to the investigation;
- (4) A description of any information requested during the investigation which was not be obtained (if any), and the reasons for the inability to obtain such information;
- (5) A statement of findings of fact;
- (6) A list of all applicable section(s) of the Code of Ethics and all applicable law involved, if any; and
- (7) Recommendations on whether a violation of the Code of Ethics occurred.

(I) After the Governing Body reviews the written report of the investigator, the Governing Body may take any one or a combination of the following actions regarding the investigation.

- (1) In the case of the City Manager, the City Auditor, or a Municipal Judge, the governing body may:
 - (a)Take no action;
 - (b) Declare that there was no violation of the Code of Ethics;
 - (c) Publicly reprimand or censure;
 - (d) Request resignation; or
 - (e) Remove the official from office.
- (2) In the case of a member of the Governing Body, the governing body may:
 - (a)Take no action;
 - (b) Declare that there was no violation of the Code of Ethics;
 - (c) Publicly reprimand or censure;
 - (d) Request resignation; or
 - (e) Refer the matter to the Attorney General or Johnson County District Attorney for ouster proceedings in accordance with K.S.A. 60-1206, and any amendments thereto.

Actions (I)(1)(b) through (I)(1)(e) and (I)(2)(b) through (I)(2)(e) must be taken by passing an ordinance in accordance with K.S.A. 12-3002, and any amendments thereto."

SECTION FOUR: Existing Resolutions Nos. 93-1122 and 98-1068 are hereby repealed.

SECTION FIVE: This Ordinance shall take effect and be in force from and after its passage and publication as provided by law.

PASSED by the Governing Body this _____ day of _____, 2021.

SIGNED by the Mayor this _____ day of _____, 2021.

Mayor

ATTEST:

City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney

Publish one time and return one Proof of Publication to the City Clerk and one to the City Attorney.