



OFFICIAL NOTICE AND AGENDA

Notice is hereby given that a public meeting will be held on the date, time and location shown below. Upon attaining a quorum of members, all items listed on the agenda shown below may be considered (discussed and/or acted upon).

Regular / Special Meeting: Ethics Board

Date and Time: Thursday, October 21, 2021 at 7:00 pm

Location: Brookfield City Hall, 2000 North Calhoun Road, Brookfield, WI 53005, North Conference Room

Members: Monica Riederer, Christopher Steffe, Karen Flaherty, Alderman David Christianson (non-voting member and Council liaison)
(Number of Members needed to meet quorum requirements: 3)

1. Roll Call
2. New Business
 - a. Election of chair and vice-chair
 - b. Review Rules of Procedure and consider any changes to the written rules of procedure.
 - c. Review Ethics Board Complaint dated August 6, 2021 and authorize investigation of the facts of said complaint.
 - d. Schedule upcoming meeting date to review investigation report.
3. Adjournment

James Zwerlein

Director of Human Resources

Date/Time Notice Posted: October 15, 2021, 2:54 p.m.

ANY PERSON WHO HAS A QUALIFYING DISABILITY AS DEFINED BY THE AMERICANS WITH DISABILITY ACT THAT REQUIRES THE MEETING OR MATERIALS TO BE IN AN ACCESSIBLE LOCATION OR FORMAT, MAY CONTACT THE CITY CLERK AT (262)782-9650 OR 2000 NORTH CALHOUN ROAD, FOR ACCOMMODATIONS. REQUESTS FOR ACCOMMODATIONS FOR MEETINGS SHOULD BE MADE AT LEAST THREE (3) BUSINESS DAYS IN ADVANCE OF THE MEETING. EVERY EFFORT WILL BE MADE TO ARRANGE ACCOMMODATIONS FOR ALL MEETINGS.

Note: It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to in this notice.



CITY ATTORNEY

Jenna Merten, City Attorney

2000 North Calhoun Road
Brookfield, Wisconsin 53005-0595
(262) 787-3525 - Fax (262) 796-6671

October 18, 2021

To: Ethics Board

CC: Jim Zwerlein, Human Resources Director

Re: Amendment to Ethics Board Rules of Procedure and Ethics Board Ordinance

Attached are suggested revisions for the Ethics Board Rules of Procedure and Ethics Board ordinance. While further changes may be desirable in the future, these changes are necessary at this time to make the quorum requirements accurate and eliminate the antiquated need for a court reporter at a hearing. It further eliminates some open meetings notice items that are already set forth in statute and the need for an annual meeting.

RULES OF PROCEDURE OF THE ETHICS BOARD
City of Brookfield, Wisconsin

1.01 ETHICS BOARD.

The Ethics Board is created by Ordinance 1381 of the Municipal Code of the City of Brookfield and has authority to administer the Code of Ethics for public officials and employees of the City of Brookfield. The Ethics Board consists of ~~four~~ three (4) members, ~~three (3) voting members appointed by the Common Council and one (1) non voting aldermanic member appointed by the President of the Common Council.~~

1.02 OFFICERS.

At the initial meeting, and thereafter at the ~~first~~ next meeting ~~in the month of November each at least one year after the previous Board election,~~ the Board shall elect, by majority vote of its members, a Chair~~man~~ and Vice Chair~~man~~. The Human Resources Director of the City of Brookfield shall act as a Secretary to the Ethics Board. The officers shall hold office until their successors are elected at the next annual meeting.

1.03 REGULAR MEETINGS.

~~The regular M~~meetings of the Ethics Board shall be held when the need arises ~~in City Hall~~ in the room designated in the agenda. The meetings may be held on the call of the chair~~man~~ ~~and or~~ any two (2) Board members.

Formatted: Justified, Indent: Left: 0.92", Hanging: 0.5", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 1.42"

~~Notice shall be given at least twenty four (24) hours in advance of each meeting. The notice shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated close session, in such forms as is reasonably likely to apprise members of the public and the news media thereof.~~

~~1.04~~ SPECIAL MEETINGS.

~~Special meetings may be held on the call of the Chairman or any two (2) Board members. Notice to Board members and public notice shall be given at least twenty four (24) hours before the time of the meeting. Notice shall be given in the manner prescribed by Section 1.03.~~

Formatted: List Paragraph, No bullets or numbering, Tab stops: Not at 1.41"

Formatted: List Paragraph, Left, Indent: Left: 0", First line: 0", Right: 0", Space Before: 0 pt, Line spacing: single

~~1.05~~ 1.04 EXECUTIVE SESSION.

At the discretion of the Chair~~man~~, the Chair~~man~~ may exclude from any meeting, or portion of a meeting, ~~the non voting aldermanic member of the Ethics Board and/or~~ the Human Resources Director of the City of Brookfield to allow consideration of any matter where conflicts of interest may be present.

Formatted: Font: Not Bold

~~1.06-05~~ AGENDA.

The agenda of the items of business for each meeting shall be prepared by the ~~Chairman and notice published by the Secretary~~ Human Resources Director or designee.

~~1.07-06~~ QUORUM.

Two (2) ~~voting~~ members of the Ethics Board shall constitute a quorum.

~~1.08~~ VOTING.

~~A majority vote of the three (3) voting members of the Ethics Board shall be necessary to pass any motion, with the exception that Findings of Fact and Conclusions of Law made by the Board at a hearing conducted under Section 1.8E of Ordinance No. 1381 of the Municipal Code, shall require the unanimous vote of the voting members of the Board. The Secretary shall record all votes.~~

~~1.09-07~~ MINUTES.

The Secretary shall keep minutes of all meetings.

~~The Board shall direct the obtaining of a court reporter for any hearing conducted pursuant to Section 1.8E of Ordinance No. 2381 of the Municipal Code.~~

~~1.10-08~~ RECORDS.

The Secretary shall be the custodian of the records of the board. The records shall be kept in the office of the Director of Human Resources of the City of Brookfield.

~~1.11-09~~ ACCESS TO RECORDS.

Notwithstanding section 19.35 of the Wisconsin Statutes, the following records of the Ethics Board of the City of Brookfield are not open for public inspection:

- A. Requests for Advisory Opinions, opinions issued in response thereto, or records obtained in connection with a request for an advisory opinion other than summary opinions issued pursuant to Section 1.7B of Ordinance No. 1381 that do not disclose the identity of the individual whose original request for an advisory opinion prompted the issuance.
- B. Records obtained or prepared by the Ethics Board in connection with an investigation, except that the Ethics Board shall permit inspection of the records that are made public in the course of a hearing held under Section 1.8E to determine whether a violation of Ordinance No. 1381 has occurred.

Formatted: Body Text, Justified, Indent: Left: 1.39", Right: 0.74", Space Before: 11.6 pt, Line spacing: Multiple 0.9 li, No bullets or numbering, Tab stops: Not at 0.89" + 0.89"

Formatted: Indent: Left: 0"

Formatted: Body Text, Justified, Right: 0.74", Space Before: 11.6 pt, Line spacing: Multiple 0.9 li, No bullets or numbering, Tab stops: Not at 0.89" + 0.89"

C. The Ethics Board, replying to a request for an advisory opinion, may make the opinion public with the consent of the individual requesting the advisory opinion or the organization or governmental body on whose behalf it is requested and may make public a summary of an advisory opinion issued under Ordinance 1381 after making sufficient alterations in the summary to prevent disclosing the identities of individuals involved in the opinion. A person who makes or purports to make public the substance of or any portion of an advisory opinion requested by or on behalf of the person waives the confidentiality of the request for an advisory opinion and of any records obtained or prepared by the Ethics Board or the attorney for the Ethics Board in connection with the request for the advisory opinion.

Formatted: Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 1.37" + Indent at: 1.87"

2.01 INVESTIGATION.

Either upon its motion or upon the sworn complaint of any person alleging facts which, if true, would constitute improper conduct under the provisions of ~~Ordinance No. 1381~~ Chapter 2.20 of the Brookfield Municipal Code or Section 19.59 of the Wisconsin Statutes, the Ethics Board shall conduct an investigation of the facts. If the investigation indicates there is no reasonable basis for justifying further investigation, the complaint shall be dismissed and no further action shall be taken. If the investigation indicates that the improper conduct may be criminal in nature, the Ethics Board shall cease further proceedings and shall refer the matter to the appropriate authorities. If the investigation indicates there may be reasonable basis for justifying further investigation, the Ethics Board shall conduct a public hearing in accordance with the common law requirements of due process, including notice, an opportunity to be heard, an opportunity to cross-examine witnesses and to present testimony and other evidence in support of the official or employee whose conduct is the subject of the public hearing and an opportunity to be represented by counsel or other representative at the expense of the accused. The Ethics Board is empowered to issue subpoenas and administer oaths. After the conduct of the hearing, the Ethics Board shall issue written Findings of Fact and Conclusions of Law concerning the propriety of the conduct of the subject official or employee and shall refer the matter to the Common Council for final disposition.

2.02 HEARING.

A. If the Ethics Board finds that there may be a reasonable basis for justifying further investigation pursuant to Section 1.12 above, the hearing on the matter shall be held not more than thirty (30) days after such determination, unless the parties consent to a reasonable extension of time. The Ethics Board shall give the public official or employee at least twenty (

Formatted: Indent Left: 0", First line: 0"

20) days notice of the hearing date. Upon determination by the board to hold a hearing, it shall set the day, time and place of the hearing and direct the Secretary of the Board to give written notice to the public official or employee.

Formatted: Indent Left: 1.4", First line: 0.01", Right: 0.73", Space Before: 11.65 pt

B. Within ten (10) days of receipt of notice, the public official or employee may request and the Board, in its sole discretion, may grant, a continuation to a later hearing date, but not more than twenty (20) days after the initial date set for the hearing in the notice.

2.03 CONDUCT OF HEARING.

A. The hearing shall be open to the public. The Chair~~man~~ of the Board shall preside at the hearing and all appearances shall be noted.

~~B. A. B. The hearing shall be recorded by an audio recording device. transcript of the hearing shall be taken and prepared by a court reporter. The original transcript shall be paid for by the City of Brookfield. Any additional copies shall be paid for by the party requesting the same.~~

~~C. The Chairman shall read the complaint unless reading of the complaint is waived by the official or employee who is the subject of the investigation. The official or employee who is subject of the investigation shall be entitled to representation by counsel at his or her own expense.~~

~~D. C.~~ The City Attorney or his/her designee shall be available to furnish the Ethics Board with whatever legal assistance is necessary to carry out its functions.

~~E. D.~~ Opening and Closing Statements may be made by the parties or their attorneys.

~~F. E.~~ As the burden shall be upon the City to prove a violation of Ordinance No. 1381, the City shall present its case to the Board first. In presenting its case to the Board, the City may be represented either by the City Attorney or outside counsel retained for purposes of presentation of the case.

2.04 WITNESSES.

A. The testimony of all witness shall be under oath.

B. The appearance of witnesses may be compelled by subpoena issued by the Chair~~man~~ of the Ethics Board.

C. Witnesses subpoenaed by the Board shall be entitled to payment of statutory witness fees and mileage by the City.

D. Each party shall have the right to cross-examine ~~and impeach~~ witnesses.

~~E.~~ The Board shall have the right to examine any witness called to testify before the Board.

2.05 RULES OF EVIDENCE.

The Chair~~man~~ of the Board ~~may~~ shall make all rulings on procedure and evidence. A ruling challenged by a Board member shall be finally determined by majority vote of the Board.

2.06 DETERMINATION.

Upon conclusion of the hearing and the Board's deliberations, the Board shall ~~file~~ issue its decision within fourteen (14) days in writing signed by all participating Board members with Findings of Fact, Conclusions of Law ~~and a final determination~~ concerning the propriety of the conduct of the officer or

Formatted: Indent: Left: 1.96", No bullets or numbering

Formatted: Justified, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 3 + Alignment: Left + Aligned at: 1.37" + Indent at: 1.88"

Formatted: Justified, Indent: Left: 1.45", Hanging: 0.5", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 3 + Alignment: Left + Aligned at: 1.37" + Indent at: 1.88"

Formatted: Justified, Indent: Left: 1.44", Hanging: 0.51", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 3 + Alignment: Left + Aligned at: 1.37" + Indent at: 1.88"

Formatted: Font: 12 pt

Formatted: Justified, Indent: Left: 0.92", Hanging: 0.5", Right: 0", Space Before: 0 pt, Line spacing: single, No bullets or numbering, Tab stops: Not at 1.93"

employee and shall, ~~if appropriate,~~ refer the matter to the Common Council ~~or other proper authority with any recommendations for suspension or removal from office or other disciplinary action.~~ The Board may make a recommendation as to the disposition, including whether disciplinary action or other sanctions should occur.

3.01 ADVISORY OPINION.

- A. Upon the written request of a public official or employee, the Board will furnish an advisory opinion in writing regarding the application of the Code of Ethics to that public official or employee.
- B. The request shall contain a full statement of the pertinent facts and may contain the application of the Code of Ethics understood by the public official or employee. At the time of the request for an advisory opinion, the person applying for an advisory opinion may request the opportunity to present his or her interpretation of the facts at issue and of the applicability of the provisions of the Code to the Board in person.
- C. The request shall be filed with the Chairman or Secretary and placed on the next Board agenda. At the conclusion of the discussion, the Board shall decide whether to prepare an opinion or request additional information in writing.
- D. The Chairman of the Board shall assign preparation of an advisory opinion to a member of a Board or the City Attorney and the final opinion shall be approved by the Board.
- E. A Board member may dissent in writing from a board advisory opinion.
- ~~F. If an advisory opinion is given to a public official or employee and the requesting official or employee does not act in accordance with the advisory opinion and that official or employee is later determined by the Board after a hearing to have violated the Code of Ethics in~~
- ~~G. _~~
- F. respect to the subject matter of the advisory opinion, the Board will then consider the advisory opinion in making its recommendation to the Common Council or other proper authority.

Formatted: Font: 11.5 pt

Formatted: Indent: Left: 1.42", Hanging: 0.5", Right: 0", Space Before: 0 pt, Line spacing: single, Tab stops: Not at 1.91"

Formatted: List Paragraph, Outline numbered + Level: 3 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 1.42" + Indent at: 1.92"

Formatted: List Paragraph, Right: 0", Space Before: 0 pt, Line spacing: single, Outline numbered + Level: 3 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 1.42" + Indent at: 1.92"

4.01 AMENDMENT OF RULES.

These rules shall not be changed except upon approval of the Common Council after a recommendation is made for amendment by a unanimous vote of the voting members of the Board. Any inconsistency between these rules of procedure and ~~Ordinance No. 1381~~state or local law shall be resolved in favor of ~~Ordinance No. 1381~~state or local law.

4.02 ROBERTS' RULES OF ORDER.

The rules of parliamentary order shall govern the proceedings of the Board in all cases to which they are applicable, if not inconsistent with any special rules adopted for the government of the board or pursuant to laws of the State of Wisconsin.

Adopted by the Board of Ethics of the City of Brookfield on
The day of, _____, 2021.

Formatted: Justified, Indent: Left: 1.45", Space Before: 9.8 pt, Line spacing: Exactly 9.15 pt, Tab stops: Not at 3.12"

ORDINANCE # _____ OF THE CITY OF BROOKFIELD, WISCONSIN

Committee: Legislative and Licensing Committee
Committee Date: November 2, 2021
Committee Recommendation: [Appr/Deny #-#]

Public Hearing: n/a
Council Date: [insert mtg date]
Council Action: [Appr/Deny #-#]

*Amend Subsections 2.20.08.A and B of the Brookfield Municipal
Code to Set the Ethics Board at Three Members*

The Common Council of the City of Brookfield do ordain as follows:

PART I. Subsections 2.20.080.A and B are hereby amended to read as follows:

2.20.080 – Creation, jurisdiction, and application of ethics board.

A. ~~A.~~—There is created an ethics board to consist of ~~four~~three members. The membership of the board shall consist of three citizens ~~and one alderman. The alderman shall be a nonvoting member and shall act as the liaison with the council.~~ The ~~personnel~~Human Resources Director shall provide necessary staff assistance to the board, shall serve as its secretary, but ~~he~~ shall not vote. The City ~~A~~ttorney shall furnish the board whatever legal assistance is necessary to carry out its functions.

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.51"

A.B. The ~~citizen~~ members of the ethics board shall be appointed by the legislative and licensing committee, subject to confirmation by the council. Terms of office ~~of the citizen members~~ shall be three years, ~~except that when the initial appointments are made, one member shall be appointed for one year, one for two years and one for three years. The aldermanic member shall be appointed by the president of the council, subject to confirmation by the council. The term of office of the aldermanic member shall coincide with his term of office.~~ The citizen members shall be residents of the ~~e~~City and shall not be elected officials, full-time appointed officials, ~~and or~~ city employees nor shall they be currently serving on any other ~~e~~City board, committee, or commission.

Formatted: List Paragraph, Indent: Left: 0.51"

PART II. All ordinances and parts of ordinances contravening the provisions of this ordinance are hereby repealed.

ORDINANCE # _____ OF THE CITY OF BROOKFIELD, WISCONSIN

PART III. If any section or portion of this ordinance shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections, or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect.

PART IV. The provisions of this ordinance shall be in full force and effect from and after its passage and publication.

Adopted this [insert day] day of [insert month], [insert year].

Approved:

Mayor Steven V. Ponto

Attested:

City Clerk Renee Tadych

Publication Date:

5. Wherefore, pursuant to Section 2.20.080 of the Municipal Code, I am filing this sworn complaint with the Ethics Board for an investigation.

Dated at this 6th day of August, 2021.

By: Michael Hallquist
Michael Hallquist

Subscribed and sworn to before me
this 6th day of August, 2021.

Jenna Merten
(Jenna Merten)
Notary Public, State of Wisconsin
My Commission expires: is permanent