

## ORDINANCE NO. 17-5688

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REPEALING SECTIONS 2-540 THROUGH 2-549 AND SECTIONS 2-702, 2-703, 2-705 THROUGH 2-709; BY REVISING SECTIONS 2-704 AND 2-221(2)(o); AND ADOPTING STATE ETHICS STATUTES FOR FUTURE ETHICS ISSUES AND COMPLAINTS CONCERNING PUBLIC ELECTED OR APPOINTED MUNICIPAL OFFICIALS OR EMPLOYEES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

**Section 1.** That Sections 2-540 through 2-549 of the Billings, Montana City Code be repealed in their entirety as follows:

### ~~DIVISION 6. ETHICS BOARD~~

~~Sec. 2-540. - Created.~~

There is hereby created a board of ethics.

~~Sec. 2-541. - Composition, appointment.~~

The board of ethics shall consist of five (5) persons who shall hold no other office or employment under the city.

~~Sec. 2-542. - Review of allegations.~~

- (a) Any allegations that a city official has violated any part of this article may be referred in writing to any member of the board of ethics who shall then request the board to convene for the purpose of reviewing the allegation. If reasonable grounds are found by the board, it may call a hearing to dispose of the allegation.
- (b) In addition, the board may hold a hearing after its own investigation if it finds that a person has failed to comply with the provisions of this article.

Sec. 2-543. - Hearings.

All hearings of the board of ethics shall be conducted as follows:

- (1) A city official shall have the right of representation by counsel.
- (2) The board of ethics shall receive evidence from the city official alleged to have violated any section or sections of this Code, or from any person the accused city official feels may assist in such city official's defense, from the party accusing such city official and from any other person as the board deems necessary.
- (3) The board may request any witness to appear before them at a fixed time or to produce any records or documents required by the board.
- (4) The city attorney shall assign counsel to the board.

Sec. 2-544. - Decisions.

The board of ethics, upon completion of any hearing, shall render a decision in writing to the city attorney and the party involved within fifteen (15) days, either determining no violation occurred, recommending prosecution, or setting forth requirements to be complied with in order that voluntary compliance may be had and final determination obtained.

Secs. 2-545 - 2-549. - Reserved.

**Section 2:** That sections 2-702, 2-703 and 2-705 through 2-720 of the Billings, Montana City Code be repealed in their entirety as follows:

Sec. 2-702. - Definitions.

The terms used in this article are defined as follows:

*Financial interest* means any interest which shall yield, directly or indirectly, a monetary or other material benefit (other than the duly authorized salary or compensation for his or her services to the city) to the official or to any person employing or retaining the services of the official.

*Official* means any person elected to a city office, employed by the city, or appointed to any public office or public body of the city whether paid or unpaid and whether part time or full time.

*Personal interest* means any interest arising from blood or marriage relationships or from close business or political association whether or not any financial interest is involved.

*Public body* means any agency, board, body, commission, committee, department or office of the city.

Sec. 2-703. Fair and equal treatment.

- (a) No official shall grant or make available to any member of the public any consideration, treatment, advantage or favor beyond that which is the general practice to grant or make available to the public at large.
- (b) No official shall use public time, facilities, equipment, supplies, personnel or funds for the official's private business purposes.

Sec. 2-705. Representing private interests.

- (a) No official, whether paid or unpaid, shall appear on behalf of private interests before any public body of the city. An official shall not represent private interests in any action or proceeding against the interests of the city or in any proceeding to which the city is a party.
- (b) These prohibitions shall not be construed to prevent an official from making inquiries and investigations as provided for in the Charter, nor shall it prevent an official from appearing before any public body of the city to express the official's personal views as a private citizen.

Sec. 2-706. Gifts and favors.

- (a) No official or employee shall accept any gift, whether in the form of money, thing, favor, loan or promise, that is offered to influence an official decision or to produce an official opinion or action.
- (b) No city official or employee shall accept a cash gift for any reason.
- (c) Except as provided under previous subsections (a) and (b), a city official or employee may accept a gift or favor of food, merchandise or services whose cash value is less than fifty (\$50.00) dollars.

Sec. 2-707. Nepotism.

No elected official shall appoint or vote for appointment of any person related to the elected official by blood or marriage to any clerkship, office, position, employment or duty, when the salary, wages, pay or compensation is to be paid out of public funds.

Sec. 2-708. Sanctions.

- (a) *Resignation.* Violation of any provision of this article should raise conscientious questions for the official concerned as to whether

voluntary resignation or other action is indicated to promote the best interests of the city.

(b) *Civil penalty.* Violation of any of the provisions of this article, including but not limited to any failure to file disclosures, in addition to any criminal penalty, shall subject the violator to a civil penalty equal to any pecuniary benefits received because of the violation committed. The civil penalty in this subsection shall be recoverable by, and accrue to, the city in a civil action brought by the city.

(c) *Criminal penalty.* Any official who shall violate any provision of this article shall be subject, upon conviction in a court of competent jurisdiction, to the penalty prescribed in section 1-110.

Sec. 2-709. ~~Forfeiture of office.~~

Recovery of pecuniary benefits under section 2-708(b) or criminal conviction under section 2-708(c) shall conclusively determine that the city official lacks qualifications for office and is subject to forfeiture of office as prescribed in section 3.09(b) of the Charter.

Secs. 2-710 - 2-720. ~~Reserved.~~

**Section 3:** That Section 2-704 of the Billings, Montana City Code be amended to read as follows:

Sec. 2-7024. - Conflict of interest.

The Mayor and City Council, all other elected City officials, appointed City boards and commission members and all City employees shall be subject to the applicable Code of Ethics provisions in State law including but not limited to all laws governing conflict between public duty and private interest.

(a) *Financial or personal interest.* No official, either on his or her own behalf or on behalf of any other person, shall have any financial or personal interest in any business or transaction with any public body unless the official shall first make full public disclosure of the nature and extent of such interest.

(b) *Disclosure and disqualification.* Whenever the performance of his or her official duties shall require any official to deliberate and vote on any matter involving the official's financial or personal interest, the official

shall publicly disclose the nature and extent of such interest and disqualify himself or herself from participating in the deliberation as well as in the voting.

- (c) *Incompatible employment.* No official shall engage in private employment with, or render services for, any private person who has business transactions with any public body unless the official shall first make full public disclosure of the nature and extent of such employment or services.
- (d) *Private interest.* Private interest is a direct or indirect interest of a natural person, partnership, corporation or any other entity including a political entity other than the city or an organization in which the city is affiliated.

**Section 4:** That Section 2-221(2)(o) of the Billings, Montana City Code be amended to read as follows:

(2) Meeting protocol.

...

- (o) Every member of the council present shall vote upon every question submitted to the council, unless excused or unless the member has a financial or personal interest as defined and provided below in section 2-702.

*Financial or Personal interest. No official, either on his or her own behalf or on behalf of any other person, shall have any financial or personal interest in any business or transaction with any public body unless the official shall first make full public disclosure of the nature and extent of such interest.*

If a member has a financial or personal interest in a matter before the Mayor and Council that requires a vote or other decision or direction to city staff, the member shall, immediately after the motion has been made and seconded, or as soon thereafter as the member may be recognized by the presiding officer, publicly disclose the nature and extent of such interest and disqualify himself or herself from participation in the deliberation and voting on the question.

For purposes of evaluating whether or not a conflict of interest requires the Mayor or a Council Member to disqualify themselves from the deliberation and vote on any question, the following definitions shall apply:

*Disclosure and disqualification.* Whenever the performance of his or her official duties shall require any official to deliberate and vote on any matter involving the official's financial or personal interest, the official shall publicly disclose the nature and extent of such interest and disqualify himself or herself from participating in the discussion, deliberation as well as in the voting on such matter.

*Financial interest* means any interest which shall yield, directly or indirectly, a monetary or other material benefit (other than the duly authorized salary or compensation for his or her services to the city) to the official or to any person employing or retaining the services of the official.

*Official* means any person elected to a city office, employed by the city, or appointed to any public office or public body of the city whether paid or unpaid and whether part-time or full-time.

*Personal interest* means any interest arising from family blood or marriage relationships or from close personal, business or political association whether or not any financial interest is involved.

*Private interest.* Private interest is a direct or indirect interest of a natural person, partnership, corporation or any other entity including a political entity other than the city or an organization in which the city is affiliated. This definition also includes an interest held by an individual that is: ownership interest in a business; a creditor interest in an insolvent business; membership in a business as a director or officer; ownership in real property; a loan or other debtor interest; or an employment relationship or prospective employment for which negotiations have begun.

*Public body* means any agency, board, body, commission, committee, department or office of the city

**Section 5. Severability.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such

invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of these ordinances are declared to be severable.

**Section 6. Repealer.** All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

**Section 7. Effective Date.** This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

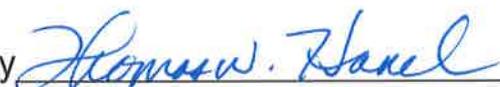
APPROVED on first reading this 27th day of March, 2017.

ADOPTED and APPROVED on second reading this 10<sup>th</sup> day of April, 2017.



CITY OF BILLINGS

By

  
Thomas W. Hanel

Thomas W. Hanel, Mayor

ATTEST:

By

  
Denise R. Bohlman

Denise R. Bohlman, City Clerk