

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. CODE OF ETHICS.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN²

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at such time at the city hall as shall be provided from time to time by resolutions of the board. (1970 Code, § 1-101)

1-102. Order of business. At each meeting of the board of mayor and aldermen the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by the mayor.

¹Charter references

See the charter index, the charter itself, and footnote references to the charter in the front of this code.

Municipal code references

Building, plumbing, electrical and gas inspectors: title 12.

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

²Charter references

Compensation: § 30.

Eligibility: § 4.

Oath: § 4.

Powers: § 5.

Terms of office: § 3.

- (2) Roll call by the recorder.
- (3) Reading of minutes of the previous meeting by the recorder and approval or correction.
- (4) Grievances from citizens.
- (5) Communications from the mayor.
- (6) Reports from committees, members of the governing body and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1970 Code, § 1-102)

1-103. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1970 Code, § 1-103, modified)

CHAPTER 2

MAYOR¹

SECTION

1-201. Generally supervises municipality's affairs.

1-202. Authority with respect to civil emergencies.

1-201. Generally supervises municipality's affairs. The mayor shall have general supervision of all municipal affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1970 Code, § 1-201)

1-202. Authority with respect to civil emergencies. (1) A "civil emergency" is:

(a) A riot or unlawful assembly characterized by the use of actual force or violence or a threat to use force if accompanied by the immediate power to execute by three (3) or more persons acting together without authority of law; or

(b) Any natural disaster or man-made calamity including, but not limited to, flood, conflagration, cyclone, tornado, earthquake or explosion, within the geographic limits of the City of McEwen or in such close proximity thereto which may result in death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the health, safety and welfare of the citizens; or

(c) The destruction of property or the death or injury of persons brought about by the deliberate acts of one (1) or more persons acting either alone or in concert with others when such acts are a threat to the peace of the general public or any segment thereof.

(2) A "curfew" is a prohibition against any person from walking, running, loitering, standing or motoring on any alley, street, highway, public property or vacant premises within the corporate limits of the city except a person officially designated to duty with reference to a civil emergency or who is lawfully on the streets as hereinafter provided.

¹Charter references

Compensation: § 25.

Duties: §§ 9 and 25.

Eligibility: § 4.

Oath: §§ 4 and 25.

Term of office: § 3.

Vacancy in office: § 4.

(3) When in the judgment of the mayor a civil emergency exists he shall forthwith proclaim in writing the existence of the same and shall file a copy of his proclamation with the recorder.

(4) Following a proclamation of a civil emergency by the mayor he may order a general curfew applicable to such geographical areas of the city or to the city as a whole as he deems advisable and which general curfew shall be applicable during those hours of the day or night as the mayor deems necessary in the interest of the public safety and welfare. Such proclamation and general curfew shall have the force and effect of law and the force and effect of an ordinance of the city and the same shall continue in effect until rescinded in writing by the mayor, but in no event shall such period exceed fifteen (15) days.

(5) After a proclamation of a civil emergency has been made, the mayor may, at his discretion and in the interest of the public safety and welfare:

(a) Order the closing of all establishments wherein beer or other alcoholic beverages are sold or served.

(b) Order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor and/or beer or other alcoholic beverages is permitted.

(c) Order the discontinuance of the sale of beer.

(d) Order the discontinuance of selling, distributing or giving away of gasoline or other flammable liquid or combustible product in any container other than a gasoline tank properly affixed to a motor vehicle.

(e) Order the closing of gasoline stations and other establishments where the chief activity or business of which is the sale, distribution or dispensing of flammable liquids or combustible products.

(f) Order the discontinuance of selling, distributing, dispensing or giving away of firearms or ammunition of any character whatsoever.

(g) Order the closing of any or all establishments or portions thereof where the chief activity or purpose of the same is the sale, distribution, dispensing or giving away of firearms and/or ammunition.

(h) Order such other measures or prohibitions as reasonably necessary for the protection of life and property.

(6) No curfew ordered by the mayor shall apply to persons who are lawfully on the streets and public places during a civil emergency who have permission of the mayor or of chief of police on good cause shown, nor shall a curfew apply to any medical personnel in the performance of their duties.

(7) It is declared to be a misdemeanor against the city for any person, firm or corporation to violate any of the provisions of this section or of any orders issued by the mayor pursuant hereto or pursuant to state law authorizing the issuance of such orders and upon conviction therefor shall be punished by fine of \$50 and shall pay the costs of the cause. Each separate act in violation shall be a separate offense. (1970 Code, § 1-202)

CHAPTER 3**RECORDER¹****SECTION**

1-301. To keep minutes, etc.

1-302. To perform general administrative duties, etc.

1-301. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1970 Code, § 1-301)

1-302. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the municipality which are not expressly assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. He shall also have custody of, and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the municipality shall provide. (1970 Code, § 1-302)

¹Charter references

Bond: § 10.

Compensation: § 23.

Duties: § 10.

CHAPTER 4

CODE OF ETHICS

SECTION

- 1-401. Applicability.
- 1-402. General.
- 1-403. Disclosure of personal interest by official with vote.
- 1-404. Disclosure of personal interest in nonvoting matters.
- 1-405. Acceptance of gratuities, etc.
- 1-406. Use of information.
- 1-407. Use of municipal time, facilities, etc.
- 1-408. Use of position or authority.
- 1-409. Outside employment.
- 1-410. Ethics complaints.
- 1-411. Violations.

1-401. Applicability. This chapter establishes a code of ethics for full and part time elected and appointed officials and employees of City of McEwen (hereinafter referred to as the "municipality"), whether compensated or not, including those serving on separate boards, commissions, committees, authorities, corporations, and other instrumentalities appointed or created by the municipality. (as added by Ord. #244, May 2007)

1-402. General. For purposes of this chapter the following terms shall have the meanings assigned:

- (1) "Personal interest" shall be:
 - (a) Financial, ownership, or employment interest in the subject of a vote by a municipal official which is not otherwise regulated by state statutes relative to conflicts of interests; or
 - (b) Financial, ownership, or employment interest in a matter regulated or supervised by a municipal official or employee which is not otherwise regulated by state statutes relative to conflicts of interest; or
 - (c) Financial, ownership, or employment interest of a family member of a municipal official or employee.
- (2) A "family member" is a spouse, parent, stepparent, grandparent, sibling, child, or stepchild.
- (3) "Employment interest" includes situations in which a municipal official or employee or a family member is negotiating possible employment with a person or organization that is the subject of the vote of a municipal official or who will be regulated or supervised by a municipal official or employee.
- (4) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter.

(5) Nothing herein shall be deemed to repeal or supercede of the provisions of chapter 3 of title 4 of McEwen Municipal Code regulating conflicts of interest of municipal officers and employees, but the provisions of this chapter shall be deemed to be in addition and supplementary thereto. (as added by Ord. #244, May 2007)

1-403. Disclosure of personal interest by official with vote. A municipal official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote is taken, so that it appears in the minutes, any personal interest that affects or would lead a reasonable person to infer that it affects the vote on the measure. The municipal official may recuse himself or herself from voting on the measure. (as added by Ord. #244, May 2007)

1-404. Disclosure of personal interest in nonvoting matters. A municipal official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of such discretion, before the exercise of the discretion, when possible, shall disclose his or her interest in writing which shall be filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself or herself from the exercise of discretion in the matter. (as added by Ord. #244, May 2007)

1-405. Acceptance of gratuities, etc. A municipal official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

(1) For performing an act or refraining from performing an act expected or required to be performed in the regular course of his or her duties; or

(2) That might reasonably be interpreted as an attempt to influence his or her action or reward him or her for past action in executing municipal business. (as added by Ord. #244, May 2007)

1-406. Use of information. (1) A municipal official or employee may not disclose any information obtained in his or her official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) A municipal official or employee may not use nor disclose information obtained in his or her official capacity or position of employment with intent to result in financial gain for himself or herself or any other person or entity. (as added by Ord. #244, May 2007)

1-407. Use of municipal time, facilities, etc. (1) A municipal official or employee may not use nor authorize the use of municipal time, facilities, equipment or supplies for private gain or advantage to himself or herself or to a family member.

(2) A municipal official or employee may not use nor authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #244, May 2007)

1-408. Use of position or authority. (1) A municipal official or employee may not make nor attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) A municipal official or employee may not use nor attempt to use his or her position to secure any privilege or exemption for himself or herself or others which is not authorized by the charter, general law, ordinance or policy of the municipality. (as added by Ord. #244, May 2007)

1-409. Outside employment. A municipal official or employee may not accept nor continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of his or her municipal position or conflicts with any provision of the municipal charter, ordinance or policy. (as added by Ord. #244, May 2007)

1-410. Ethics complaints. (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of a municipal official or employee who is potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) (a) Except as otherwise provided in this subsection, the city attorney shall investigate credible complaints against appointed municipal officials and employees charging violation of this chapter, or undertake an investigation on his or her own initiative when information indicates a possible violation. The city attorney shall make recommendations for action to end or seek retribution for any activity which in his or her judgment constitutes a violation of this chapter.

(b) The city attorney may request the governing body engage another attorney, individual, or entity to act as ethics officer when he or she has or will have a conflict of interest in a particular matter.

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the governing body and the governing body determines the complaint has merit or sufficient appearance of merit to warrant further investigation, the governing body

shall authorize and direct an investigation by the city attorney or by such other individual or entity designated by the governing body.

(3) In interpreting and enforcing this chapter the standard shall be what a reasonable municipal official or employee would do in the same or similar circumstances.

(4) When a violation of this chapter also constitutes a violation of a personnel policy, rule, or regulation of the municipality, the violation shall be dealt with as a violation of such provisions in addition to a violation of this chapter. (as added by Ord. #244, May 2007)

1-411. Violations. An elected or appointed official or appointed member of a separate board, commission, committee, authority, corporation, or other instrumentality of the municipality who violates any provision of this chapter shall be punished as provided by the charter or other applicable law and in addition shall be subject to removal from office as provided by law and/or censure by the governing body. A municipal employee who violates any provision of this chapter is subject to disciplinary action as the governing body shall determine. (as added by Ord. #244, May 2007)