CHAPTER XXX
CODE OF ETHICS

30.01 PURPOSE

The purpose of the **"CODE OF ETHICS"** is to:

A. Establish a standard of ethical conduct for covered personnel;

B. Require such financial disclosures as will enable the Code to be enforced; and,

C. Establish procedures which will assist covered personnel in determining their compliance with the Code before the fact, and in establishing a lack of intent for a violation in the event of an inadvertent violation.

30.02 DEFINITIONS

A. "CODE" shall mean the **"CODE OF ETHICS"**.

B. "COVERED PERSONNEL/PERSON" shall mean any City officer or employee, whether elected or appointed, paid or unpaid, full or part time, any member of any City Board, Committee, Commission or Authority, and any employee of the Library, Museum, Housing Authority and Redevelopment Authority. Covered personnel shall also mean, for purposes of **§30.06 F.**, a former employee.

C. "CONFIDENTIAL" shall mean documents which are marked as "Confidential" and protected from disclosure, as such, under the State's Public Records Law; and documents and conversations which are the subject of an "Executive Session" permitted, as such, under the State's Open Meeting Law.

Confidentiality shall cease with respect to the following, as hereinafter specified:

1. Contracts & Leases - When a final agreement is approved and executed by the parties.

2. Litigation - When a final Order or Judgment has been entered by a Court or Administrative Tribunal, excepting matters of Attorney/Client privilege.

3. Claims Settlement Where No Litigation Exists - When a final release has been executed and received, excepting matters of Attorney/Client privilege.

4. Deeds and Easements - When a deed or easement is received and accepted.

5. Labor Negotiations - When a labor agreement is approved and executed. Notwithstanding the above, the Mayor, City Administrator or Department Head responsible for any of the above may waive confidentiality, where a waiver will not damage the interest sought to be protected. However, in no event will the strategy used to achieve a given result be made public, nor will preliminary drafts of documents or agreements, unless required to document or support the City's position in a Court of law or before any administrative agency.

D. "DISCLOSE", with respect to Confidential Information, shall mean to provide, show or relate documents or conversations to a person who is not privy to a transaction or whose input is not essential or beneficial to the processing of a transaction.

E. "QUASI-JUDICIAL CAPACITY" shall mean to act in the capacity of an administrative hearing examiner, with respect to the following:

1. Employee disciplinary hearings before the Civil Service Commission, Board of Police and Fire Commissioners, or any other Board, Commission or Authority.

2. License and Permit suspension, revocation and nonrenewal hearings before the hearing body designated by Ordinance or State Statute.

Said term shall not include the process of determining whether or not charges are to be filed or action taken, nor shall it include any legislative acts.

The Quasi-Judicial Process shall commence, for purposes hereunder, at the time a formal written complaint or appeal is served and filed and shall terminate upon a final decision being made and filed by the hearing body.

30.03 POLICY

It is the declared policy of the City of Kenosha that covered personnel act:

A. Impartially and responsibly.

B. Through the proper channels of the governmental structure.

C. In accordance with the policies promulgated by the Mayor and Common Council.

D. In obedience of all applicable laws, rules and regulations.

E. In a manner as will promote public

confidence.

F. Without regard for personal gain attained through the use of their position, other than for authorized compensation.

G. Without regard to age, race, creed, religion, color, handicap, sex, national origin, ancestry or sexual orientation, unless permitted by law.

H. In accordance with employee work rules and relevant established standards of employee performance, where applicable.

I. Within the scope of their authority.

J. In full cooperation with other employees, except where prohibited by confidentiality.

30.04 CONSTRUCTION

This Code shall be construed so as to acknowledge that it is subordinate to Federal and State laws, rules and regulations governing specific covered personnel conduct, and also so as to acknowledge that it is subordinate to Federal and State Constitutional rights of covered personnel. In the event of a clear and unambiguous conflict, this Ordinance, with respect to employees, shall be subordinate to the Civil Service Ordinance and to any applicable labor agreement.

30.05 APPLICATION OF CODE

Covered personnel may protect themselves from the inadvertent violation of this Code by procuring a written advisory opinion from the City Attorney prior to acting. Any covered personnel who acts in accordance with said opinion shall not be subject to prosecution under this Code, even if such interpretation is later reversed or withdrawn.

Covered personnel may mitigate the consequence of an inadvertent violation of this Code by making a full disclosure of any facts which would form a basis for determining a violation of this Code, prior to acting, as hereinafter provided. Such disclosure will not preclude prosecution under this Code in the event of a violation thereof, but may be a mitigating factor which could lessen the severity of the offense and subsequent discipline. The required disclosure must be made in writing or noted in the minutes or record of proceedings of any unit or subunits of City government. Members of the Common Council, Committees thereof or of any City Board, Commission or Authority, shall make such disclosure to said respective body. City Department Heads shall make said disclosure to the Mayor or City Administrator. Other employees shall make said disclosure to their Department Head. Employees of the Library, Museum, Housing Authority and Redevelopment Authority shall make said disclosure to their respective Director.

30.06 STANDARDS FOR ETHICAL CONDUCT

A. Crimes Against Government And Its Administration. No covered personnel shall violate Chapter 946, Wisconsin Statutes, "Crimes against Government and its Administration".

B. Public Contracts, Financial Transactions, Real Estate Transactions And The Purchase Or Sale Of Material, Supplies Or Services. No covered personnel shall vote on or participate in a decision-making capacity in any transaction involving a City contract, City financial transaction, City real estate transaction, or in the purchase or sale of any material, supplies or services under circumstances in which they have a personal financial interest therein.

C. Gifts.

1. No covered personnel, within any calendar year, shall accept any gift, favor, service, or thing of value, or combination or multiple thereof, from any one person, party, firm or corporation, which is related to City service or employment, which equals or is in excess of Fifty ($50) Dollars.

2. No covered personnel, in the course of their service or employment, shall give to any person any gift, favor, unauthorized service, or thing of value which may tend to gain any undue or improper favor for them or the City.

D. Campaign Contributions. Campaign contributions shall not be construed as gifts, etc. under Subsection **C.** hereof, but shall be reported by candidates for elected office in a timely manner in accordance with State law.

E. Personal Use of City Property. No covered personnel shall use or permit the use of City property for personal financial gain.

F. Confidential Information.

1. No covered personnel shall disclose any information gained during the course of their service or employment in a confidential capacity to any person, where not expressly or impliedly authorized to do so, unless and until such information is or becomes a public record.

2. No covered personnel shall use any information gained during the course of their service or employment in a confidential capacity for their own

personal financial gain unless and until such information is or becomes a public record.

The obligation to preserve confidentiality shall continue, following termination of service or employment, for so long as the City's need for confidentiality exists, unless and until such information is or becomes a public record.

G. Laws, Rules and Regulations. No covered personnel shall, in the course of their service or employment, intentionally violate, cause to be violated, or direct to be violated any Federal, State or City law, rule or regulation.

H. Discrimination. No covered personnel shall intentionally engage in any discriminatory conduct as prohibited by local, State or Federal law, rule or regulation.

I. Representing Private Interests. No covered personnel shall represent any person or party before any City legislative, quasi-legislative, judicial or quasi-judicial body, other than for themselves or their spouse or child. However, nothing herein contained shall be construed to prohibit an elected officer from representing their constituent before any such body.

J. Political Activity.

1. No covered person shall use, cause to be used, or direct to be used, any City personnel or equipment during working hours, for any political campaign.

2. No covered person shall coerce any employee or person to contribute monetary or other assistance to any political candidate, party or purpose, or to otherwise restrict any employee or person in the free exercise of their Constitutional rights in such regard, except where such restriction is imposed by law, rule or regulation.

K. Quasi-Judicial Hearings.

1. No covered person, while acting in a quasi-judicial capacity, shall have ex-parte communications, oral or written, initiated or received, with any person having an interest in the matter, outside of the scope of the formal hearing process, when said communication bears on the merits of any issue which is pending before their respective hearing body. Procedural issues are not deemed issues which bear on the merits. A matter shall not be deemed pending until a complaint has been filed. Covered personnel act in a quasi-judicial capacity when serving on a body which is engaged in conducting a due process hearing.

2. Any covered person who inadvertently violates the above subsection, shall forthwith notify, in writing, their respective body of the act, date of circumstances, and names of persons involved, attaching a copy of any written communications thereto. A copy of such notice shall also be served upon the parties, or their respective attorneys, which are a party directly involved in the hearing process.

3. No covered person shall influence or attempt to influence any covered person who is engaged in conducting a quasi-judicial hearing outside of the hearing process, with respect to the merits of any issue.

L. Not-For-Profit Corporate Affiliations. Anyone covered under Section 30.02 B. of the Code of General Ordinances, especially members of the City Common Council, shall disclose any and all affiliation(s) they may have with any not-for-profit organization seeking financial support from the City of Kenosha. Disclosure shall occur at the earliest time practicable and shall be included in the disclosure required pursuant to Section 30.07. Common Council members shall refrain from voting on funding applications of organizations with which they, or an immediate family member, serve as a Director, officer or in any paid position. "Immediate Family" shall mean a spouse, sibling, parent, child, stepparent or stepchild.

30.07 FINANCIAL DISCLOSURE

Covered personnel shall make true, correct and complete Financial Disclosures as required by **Chapter XXIX** of the Code of General Ordinances and such disclosures may be used in the enforcement of this Code. It shall be unlawful to make a Financial Disclosure which is not true, correct and complete in all respects.

30.08 ENFORCEMENT

The Code of Ethics shall be enforced by outside legal counsel, hereinafter known as the "Enforcing Officer", appointed upon an "as needed" basis, by a Committee composed of the City Administrator, City Attorney, City Director of Finance and City Supervisor of Personnel.

30.09 INVESTIGATION OF COMPLAINTS

A. Filing Of Complaints. Any officer, employee, citizen of the City of Kenosha or person involved in any City transaction, may file a complaint against any named covered person with the Enforcing Officer through the City Personnel Department. A separate complaint shall be required for each named covered person. Complaints must specify the date of

the alleged offense and the Standard of Conduct alleged to have been violated. Allegations shall be deemed to be made upon personal knowledge unless stated as being made upon information and belief.

B. Investigation. The Enforcing Officer shall accept and investigate any verified complaint, submitted in writing, and signed and sworn to under an oath, administered by an attorney in the City Attorney's Office, from any authorized complainant, which states the name of any covered person alleged to have committed a violation of this Chapter and which sets forth the alleged violations. The administrator of said oath shall inform the subscriber of the complaint of the penalties imposed by State law and this Ordinance for perjury and making false charges. The Enforcing Officer, within ten (10) working days of the receipt thereof, shall forward to the accused covered person a copy of the complaint and a general statement of the applicable Code provisions. If the Enforcing Officer determines that the verified complaint, on its face, even if true, does not allege facts sufficient to constitute a violation of this Code, he/she shall dismiss the complaint and notify the complainant and the accused covered person. If the Enforcing Officer determines that the verified complaint, on its face, alleges facts, which, if true, may be sufficient to constitute a violation of this Code, he/she shall make an investigation with respect thereto. If the Enforcing Officer determines that the verified complaint was frivolous, he/she shall so state. The complaint shall be a public record upon filing. However, the investigation, while pending, shall be confidential in nature. The final disposition of the complaint shall be a public record.

Pursuant to any investigation conducted under this Chapter, the Enforcing Officer has the power to require any covered person to submit, in writing, such reports and answers to questions relevant to the investigation as the Enforcing Officer may prescribe, such submission to be made within such period and under oath, or otherwise, as he/she may determine.

No investigation of any covered person may be commenced until the covered person, who is the subject of the investigation, has been furnished with a copy of the complaint as herein provided. Should the Enforcing Officer during the course of his/her investigation, find probable cause to believe that violations, other than those alleged in the verified complaint occurred, he/she may, on his/her own motion, cause the complaint to be amended to include said violations and, in such event, he/she shall furnish the complainant and the covered person with a copy thereof, in the same manner as provided herein for new complaints.

C. Limitations. No complaint shall be made or processed before the Enforcing Officer where the alleged violation of this Code occurred prior to the effective date of this Code, or after the effective date of this Code, but where the alleged violation of this Code occurred more than one (1) year prior to the date of the filing of a verified complaint with the City Personnel Department.

D. Probable Cause Of Violation. At the conclusion of his/her investigation, the Enforcing Officer shall make a determination of whether or not probable cause exists to believe that a violation of this Code has occurred. If the Enforcing Officer determines that no probable cause exists, he/she shall send written notice of such determination to the accused covered person and to the complainant as soon as practicable. If the Enforcing Officer determines that probable cause exists to believe that a violation of this Code has been committed, he/she may commence a civil forfeiture action in the City Municipal Court and/or recommend disciplinary action.

30.10 REMOVAL, SUSPENSION AND CENSURE

Upon receipt of a Municipal Court Judgment that this Code had been violated, and/or recommendations by the Enforcing Officer for disciplinary action, an employee may be reprimanded, censured, suspended or removed from office or employment by the appropriate disciplinary authority in accordance with Chapter 17, Wisconsin Statutes, where applicable or in accordance with other applicable law; but no covered person subject to the jurisdiction of the Civil Service Commission or to the Board of Police and Fire Commissioners shall be suspended or removed otherwise than as in accordance with said applicable laws, rules and regulations.

30.11 UNFOUNDED COMPLAINTS

In the event a covered person should be charged under this Ordinance and the charges are dropped or dismissed, the covered person shall be paid by the City for the reasonable cost of their defense, upon assigning to the City any cause or action they may have for malicious prosecution. The City may pursue such assigned cause of action to recover the costs of defense against the person bringing the unfounded charges.

30.12 SEVERABILITY

If any provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is invalid or unconstitutional, as determined by a Court of Record, such invalidity or unconstitutionality shall not affect

the other provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provision or application.

30.13 PENALTY

Any covered person who violates this Code shall be subject, upon conviction, to a forfeiture of not more than One Thousand ($1,000) Dollars, plus the cost of prosecution for each violation, and in the event of failure to make timely payment thereof shall be committed to the County Jail for a period not to exceed thirty (30) days.