

ORDINANCE NO. 11-700

AN ORDINANCE TO PROVIDE FOR THE METHOD FOR COMPLAINT, PROSECUTION,  
TRIAL, AND CONVICTION FOR THE OFFENSE OF MISCONDUCT IN OFFICE

THE CITY OF ISHPEMING ORDAINS:

Section 11-701 - Definitions.

- (a) As used in this Ordinance, the term "officer" shall include the City Manager, City Clerk, City Treasurer, City Assessor, City Attorney, City Engineer, Chief of Police, Chief of the Fire Department, and every member of the City Council.
- (b) As used in this Ordinance, the term "misconduct in office" shall include all offenses defined in the Charter of the City of Ishpeming as being misconduct in office.

Section 11-702 - Charges. If any person claims that any officer of the City of Ishpeming is guilty of a misconduct in office, such person shall have the right to sign a statement under oath, setting forth specifically and in detail the acts complained of and identifying with particularity the officer complained against. Such written statement shall be known as the charges, and such charges shall be filed with the City Clerk, unless the City Clerk is complained against, in which event the charges shall be filed with the City Manager. The officer with whom the charges are filed shall make a record of the time and place of the filing thereof.

Section 11-703 - Processing of Charges. The City Clerk, or the City Manager, as the case may be, shall cause a copy of the charges to be personally served forthwith upon the officer against whom complaint has been made, and shall also cause a copy of the charges to be served forthwith upon all members of the City Council.

The charges shall be placed on the agenda for consideration at the next regular Council meeting, or shall be considered at a special meeting if one is called.

The City Council shall review the charges at the Council meeting and shall give the officer complained against an opportunity to refute or controvert the charges.

If the City Council, by a majority vote, determines that the charges are frivolous, unwarranted, without merit, or unfounded, it shall dismiss the charges and cause the person who filed the charges to be informed thereof. If the City Council, by a majority vote, determines that the charges may have merit, it shall set a hearing date thereon, which hearing date shall be not less than 10 days nor more than 30 days thereafter.

Section 11-704 - Hearing. The hearing shall be held in the regular Council chambers, and shall be a public hearing. The City Council shall secure the services of a certified court reporter and shall cause a full, complete and accurate transcript of the proceedings to be made.

The City Council shall act as a quasi-judicial tribunal and shall hear the evidence adduced by the person who filed the charges. In hearing the evidence, the City Council shall not be bound by the strict rules of evidence, but may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Irrelevant, immaterial or unduly repetitious evidence may be excluded.

The hearing shall commence with evidence presented by the person who filed the charges.

At the completion of the proofs of the charging party, the officer charged shall have an opportunity to present his case. All testimony taken shall be under oath.

The officer shall be entitled to counsel at the hearing, and he shall have the right of cross-examination; the charging party shall have the same rights.

The charging party and the officer charged shall be entitled to compulsory process for the attendance of witnesses and the production of documents. Any party wishing to avail himself of compulsory process shall apply to the Mayor therefor, and the Mayor shall issue such subpoenas as may be necessary in the name of the City Council.

At the conclusion of the hearing, both sides shall have the opportunity to present oral arguments to the City Council.

Upon completion of all proofs, the City Council shall determine whether the charges have been proven by a preponderance of the evidence; provided, however, that in the event that a Councilman is complained against, it shall require the affirmative vote of two-thirds (2/3) of all of the Councilmen elect to sustain the charges, and in all other cases, it shall require the affirmative vote of a majority of the Councilmen elect to sustain the charges.

Section 11-705 - Disposition. If the charges are sustained by the City Council, the officer complained against shall be immediately advised thereof, his office shall be forfeited, and a successor shall be selected in the manner provided by law.

If the charges are dismissed, the charging party and the officer complained against shall be immediately advised thereof.

Irrespective of the disposition of the charges, a transcript of the hearing shall be prepared and the original thereof shall be filed with the City Clerk.

Section 11-706 - Miscellaneous Provisions. If any charges are filed, it shall be the duty of the City Attorney to advise the City Council with respect thereto. The City Attorney shall not represent either the charging party or the officer complained against, but he shall not be otherwise disqualified from examining or cross-examining any witness at the hearing.

Section 11-707. This Ordinance shall become effective upon legal publication.

Adopted: November 6, 1974