

Proposal Number: 11

Name of Proposed Section: Ordinances Required in the Public Interest

Suggested Article: In General

Introduced by: Commissioner Cherry

Date Introduced: 10/8/2015

Date Reported for Second Reading: 5/12/2016

Date of Second Reading: 5/26/2016

Date Reported for Third Reading:

Date Passed:

Text:

- A. ~~The purpose of this Section is to provide a method of protecting the public interest in the electoral and governmental affairs of this City.~~

- B. ~~This Section recognizes that the proper operation of the City's government requires that public officers and employees be independent, impartial and responsible to the people; that decisions and policy be made in the proper channels of governmental structures; that public office or employment not be used for personal gain; that the integrity and operation of the City government be subject to scrutiny by the public; and that acts or actions not compatible with the best interests of the City be defined and prohibited.¹~~

- C. ~~The City shall adopt, by ordinance, such standards for the conduct of public affairs as may be deemed necessary and proper to further the intent of this Section, in addition to those ordinances required under Sec. 1-602 D.²~~

- D. ~~The City shall provide by ordinance within one (1) year after the first Mayor and Council elected under this Charter take office:~~
 - 1. ~~For the disclosure of financial interests and sources of income by all candidates for elective office;~~

 - 2. ~~For the annual disclosure by elective officers of financial interests, sources of income and gifts;~~

 - 3. ~~For the detailed accounting, prior to the date of election, of election and campaign expenses and of sources of funds and other things of value;~~

¹ Amended in Committee of the Whole 10/13/2016

² Amended in Committee of the Whole 3/24/2016

4. ~~For the full disclosure of any conflict of personal interest and the public interest by any elected or appointed official or any employee;~~
 5. ~~For the full disclosure of any conflict of financial interest and the public interest by any elected official, appointed official or any employee and for prohibition upon such person participating in decisions regarding the matter over which the conflict exists;~~
 6. ~~For the effective monitoring of those persons or entities who, on behalf of another person or entity, for compensation or as part of their employment, seek to influence official acts of the City;~~
 7. ~~For restrictions and practices concerning campaign financing, which may include but not necessarily be limited to, the establishment of spending and contribution limits;~~
 8. ~~For such restrictions as may be appropriate regulating the political activity of employees of the City;~~
 9. ~~That any violations of ordinances dealing with the above matters shall be punishable as a misdemeanor in accordance with appropriate State law, and the violation of any such ordinance may be made punishable by forfeiture of office or position;~~
 10. ~~That any declaration filed pursuant to ordinances adopted in accordance with this Section shall be by affidavit.~~
- E. ~~The Standards of Conduct Board shall review, at least annually, any reports, registrations, statements, declarations, or any other documents required to be filed under ordinances adopted by the City under this Section.³~~

A. PURPOSE

THE PURPOSE OF THIS SECTION IS TO PROVIDE A METHOD OF PROTECTING THE PUBLIC INTEREST IN THE ELECTORAL AND GOVERNMENTAL AFFAIRS OF THIS CITY. THIS SECTION RECOGNIZES THAT THE PROPER OPERATION OF THE CITY'S GOVERNMENT REQUIRES THAT ALL CITY PUBLIC SERVANTS, AS DEFINED IN THIS CHARTER, BE INDEPENDENT, IMPARTIAL AND RESPONSIBLE TO THE PEOPLE; THAT DECISIONS AND POLICY BE MADE IN THE PROPER CHANNELS OF GOVERNMENTAL STRUCTURES; THAT PUBLIC OFFICE OR EMPLOYMENT NOT BE USED FOR PERSONAL GAIN; THAT THE INTEGRITY AND OPERATIONS OF THE CITY GOVERNMENT BE SUBJECT TO SCRUTINY BY THE PUBLIC; AND THAT ACTS OR ACTIONS NOT

³ Amended in Committee of the Whole 3/24/2016

COMPATIBLE WITH THE BEST INTEREST OF THE CITY BE DEFINED AND PROHIBITED.

ALL CITY ORDINANCES NOT INCONSISTENT WITH THESE SECTIONS AND THAT EFFECTUATE ITS OPERATION MAY BE RETAINED. ORDINANCES MAY BE ENACTED WHICH ARE NECESSARY TO EFFECTUATE THE OPERATION OF THESE SECTIONS. NO ORDINANCE SHALL BE ENACTED WHICH LIMITS, CONTRADICTS OR OTHERWISE CONFLICTS WITH THE INTENT AND PURPOSE OF THESE SECTIONS.

B. APPLICATION

THESE STANDARDS OF CONDUCT APPLY TO PUBLIC SERVANTS INCLUDING THE MAYOR, CITY COUNCIL MEMBERS, ANY OTHER ELECTED OFFICIAL, APPOINTED OFFICERS, APPOINTEES, EMPLOYEES, VOLUNTEERS AND CONTRACTORS AS DEFINED IN THIS CHARTER.

TO FURTHER ENABLE ENFORCEMENT OF THIS SECTION, THE HUMAN RESOURCES DEPARTMENT SHALL MAINTAIN A LIST OF PUBLIC SERVANTS WHO DO NOT RECEIVE COMPENSATION FROM THE CITY BUT THAT ARE AUTHORIZED TO CONDUCT BUSINESS ON ITS BEHALF. PERSONS SHALL NOT CONDUCT BUSINESS ON ITS BEHALF UNTIL THE HUMAN RESOURCES DEPARTMENT HAS BEEN NOTIFIED IN WRITING.⁴

C. STANDARDS

EXCEPT AS OTHERWISE PROVIDED BY APPLICABLE LAW, A PUBLIC SERVANT SHALL NOT:

- 1. WILLFULLY OR GROSSLY NEGLECT THE DISCHARGE OF HIS OR HER DUTIES;**
- 2. USE OR DISCLOSE CONFIDENTIAL INFORMATION CONCERNING THE PROPERTY, GOVERNMENT OR AFFAIRS OF THE CITY OR ANY OFFICE OR DEPARTMENT THEREOF, NOT AVAILABLE TO MEMBERS OF THE PUBLIC AND GAINED BY REASON OF HIS OR HER OFFICIAL POSITION;**
- 3. FAIL TO REPORT TO THEIR SUPERVISOR OR THE OFFICE OF OMBUDSMAN A SUSPECTED ILLEGAL ACTION OR ACTIVITY IN VIOLATION OF THESE ETHICAL STANDARDS;**

⁴ Amended in Committee of the Whole 1/3/2017

- 4. USE PROPERTY FOR OTHER THAN OF THE CITY PURPOSES EXCEPT IN ACCORDANCE WITH POLICIES AND PROCEDURES OF THE CITY;**
- 5. ENGAGE IN OR ACCEPT PRIVATE EMPLOYMENT OR RENDER SERVICES WHEN SUCH EMPLOYMENT OR SERVICE IS IN CONFLICT OR INCOMPATIBLE WITH THE PROPER DISCHARGE OF HIS OR HER OFFICIAL DUTIES OR WOULD TEND TO IMPAIR HIS OR HER INDEPENDENCE OF JUDGMENT OR ACTION IN THE PERFORMANCE OF OFFICIAL DUTIES;**
- 6. REPRESENT A PRIVATE PERSON, BUSINESS OR ORGANIZATION IN ANY ACTION OR PROCEEDING PENDING BEFORE THE CITY OR ANY OFFICE OR DEPARTMENT THEREOF, EXCEPT:**
 - a. A PUBLIC SERVANT MAY REPRESENT ANOTHER PERSON, BUSINESS OR ORGANIZATION BEFORE A CITY UNIT OF GOVERNMENT, OFFICE OR DEPARTMENT WHERE SUCH REPRESENTATION IS A REQUIRED PART OF HIS OR HER OFFICIAL DUTIES;**
 - b. A PUBLIC SERVANT WHO IS AN UNCOMPENSATED MEMBER OF A CITY UNIT OF GOVERNMENT, BOARD, COMMISSION OR OTHER VOTING BODY MAY ACT AS AN AGENT, ATTORNEY OR REPRESENTATIVE FOR ANOTHER PERSON, BUSINESS OR ORGANIZATION IN A MATTER THAT IS PENDING BEFORE A CITY DEPARTMENT, OTHER THAN THE BOARD, COMMISSION OR OTHER VOTING BODY ON WHICH HE OR SHE IS A MEMBER; OR**
 - c. AS LONG AS A CITY COMPENSATED PUBLIC SERVANT DOES SO WITHOUT CITY COMPENSATION OR ON HIS OR HER LEAVE TIME FROM THE CITY, HE OR SHE MAY ACT AS AN AGENT, ATTORNEY OR REPRESENTATIVE FOR ANOTHER PERSON, BUSINESS OR ORGANIZATION IN A MATTER THAT IS PENDING BEFORE A CITY UNIT OF GOVERNMENT, BOARD, COMMISSION OR OTHER VOTING BODY, OTHER THAN THE BOARD, COMMISSION OR OTHER VOTING BODY ON WHICH HE OR SHE SERVES AS AN APPOINTEE OR AS AN EMPLOYEE OR UNDER A PERSONAL SERVICES CONTRACT.**
- 7. VOTE OR OTHERWISE PARTICIPATE IN THE NEGOTIATION OR THE MAKING OF ANY CITY CONTRACT, OR ANY OTHER TYPE OF TRANSACTION, WITH ANY BUSINESS ENTITY IN WHICH HE OR SHE OR AN IMMEDIATE FAMILY MEMBER HAS A FINANCIAL INTEREST; OR**

- 8. USE HIS OR HER OFFICIAL POSITION, IN VIOLATION OF APPLICABLE LAW, TO IMPROPERLY INFLUENCE A DECISION OF THE MAYOR, CITY COUNCIL MEMBERS, CLERK, APPOINTEES OR EMPLOYEES.**

- 9. A PUBLIC SERVANT SHALL NOT ACCEPT GIFTS, GRATUITIES, HONORARIA, OR OTHER THINGS OF VALUE FROM ANY PERSON OR COMPANY DOING BUSINESS OR SEEKING TO DO BUSINESS WITH THE CITY, IS SEEKING OFFICIAL ACTION FROM THE CITY, HAS INTERESTS THAT COULD BE SUBSTANTIALLY AFFECTED BY THE PERFORMANCE OF THE PUBLIC SERVANT'S OFFICIAL DUTIES, OR IS REGISTERED AS A LOBBYIST UNDER APPLICABLE LAWS. THIS PROHIBITION SHALL NOT APPLY TO:**
 - a. AN AWARD PUBLICLY PRESENTED TO A PUBLIC SERVANT BY AN INDIVIDUAL, GOVERNMENTAL BODY OR NON-GOVERNMENTAL ENTITY OR ORGANIZATION IN RECOGNITION OF PUBLIC SERVICE.**

 - b. COMPLIMENTARY COPIES OF TRADE PUBLICATIONS, BOOKS, REPORTS, PAMPHLETS, CALENDARS, PERIODICALS OR OTHER INFORMATIONAL MATERIALS.**

 - c. A GIFT RECEIVED FROM A PUBLIC SERVANT'S RELATIVE OR IMMEDIATE FAMILY MEMBER, PROVIDED THAT THE RELATIVE OR IMMEDIATE FAMILY MEMBER IS NOT ACTING AS A THIRD PARTY'S INTERMEDIARY OR AN AGENT IN AN ATTEMPT TO CIRCUMVENT THIS ARTICLE.**

 - d. ADMISSION OR REGISTRATION FEE, TRAVEL EXPENSES, ENTERTAINMENT, MEALS OR REFRESHMENTS THAT ARE FURNISHED TO THE PUBLIC SERVANT:**
 - i. BY THE SPONSOR(S) OF AN EVENT, APPEARANCE OR CEREMONY WHICH IS RELATED TO OFFICIAL CITY BUSINESS IN CONNECTION WITH SUCH AN EVENT, APPEARANCE OR CEREMONY AND TO WHICH ONE (1) OR MORE OF THE PUBLIC ARE INVITED; OR**

 - ii. IN CONNECTION WITH TEACHING, A SPEAKING ENGAGEMENT OR THE PROVISION OF ASSISTANCE TO AN ORGANIZATION OR ANOTHER GOVERNMENTAL ENTITY AS LONG AS THE CITY DOES NOT COMPENSATE THE PUBLIC SERVANT FOR ADMISSION OR REGISTRATION FEES, TRAVEL**

**EXPENSES, ENTERTAINMENT, MEALS OR
REFRESHMENTS FOR THE SAME ACTIVITY.**

**10. A PUBLIC SERVANT WHO, IN THE COURSE OF HIS OR HER
DUTIES, EXERCISES SIGNIFICANT AUTHORITY SHALL NOT:**

- a. SOLICIT OR ACCEPT A LOAN OR PAYMENT FROM AN
INDIVIDUAL WHO IS PROVIDING SERVICE TO, RECEIVING
TAX ABATEMENTS, CREDITS OR EXEMPTIONS FROM THE
CITY; OR**
- b. UNDULY INFLUENCE ANY DECISION TO FILL A POSITION IN
CITY GOVERNMENT WITH AN IMMEDIATE FAMILY
MEMBER.**

D. DISCLOSURES

- 1. ANY PUBLIC SERVANT WHO IN THE DISCHARGE OF OFFICIAL
DUTIES WOULD BE REQUIRED TO TAKE AN OFFICIAL ACTION
OR MAKE AN OFFICIAL DECISION THAT WOULD
SUBSTANTIALLY AFFECT THE PUBLIC SERVANT'S FINANCIAL
INTERESTS OR THOSE OF AN ASSOCIATED BUSINESS OR
IMMEDIATE FAMILY MEMBER AS DEFINED IN THIS CHARTER
MUST TAKE THE FOLLOWING ACTIONS:**
 - a. PREPARE A WRITTEN STATEMENT DESCRIBING THE
MATTER REQUIRING ACTION OR DECISION AND THE
NATURE OF THE POTENTIAL CONFLICT OF INTEREST**
 - b. DELIVER COPIES OF THE STATEMENT TO THE EMPLOYEE'S
IMMEDIATE SUPERIOR, IF ANY; AND**
 - c. IF AN ELECTED OFFICIAL OR APPOINTED OFFICIAL,
DELIVER COPIES TO THE CITY CLERK.**
 - d. IF A POTENTIAL CONFLICT OF INTEREST PRESENTS ITSELF
AND THERE IS INSUFFICIENT TIME TO COMPLY WITH
CLAUSES (A) TO (C), THE PUBLIC SERVANT MUST ORALLY
INFORM THE SUPERIOR OR THE OFFICIAL BODY OF
SERVICE OR COMMITTEE OF THE BODY OF THE
POTENTIAL CONFLICT.**
- 2. THE SUPERIOR MUST ASSIGN THE MATTER, IF POSSIBLE, TO
ANOTHER EMPLOYEE WHO DOES NOT HAVE A POTENTIAL
CONFLICT OF INTEREST. IF THERE IS NO IMMEDIATE
SUPERIOR, THE PUBLIC SERVANT MUST ABSTAIN, IF POSSIBLE,**

FROM INFLUENCE OVER THE ACTION OR DECISION IN QUESTION. IF THE PUBLIC SERVANT IS A MEMBER OF THE COUNCIL, THE COUNCILPERSON IS EXCUSED FROM TAKING PART IN THE ACTION OR DECISION IN QUESTION. IF THE PUBLIC SERVANT IS NOT PERMITTED OR IS OTHERWISE UNABLE TO ABSTAIN FROM ACTION IN CONNECTION WITH THE MATTER, THE PUBLIC SERVANT MUST FILE A STATEMENT DESCRIBING THE POTENTIAL CONFLICT AND THE ACTION TAKEN WITH THE CITY CLERK. THE STATEMENT MUST BE FILED WITHIN A WEEK OF THE ACTION TAKEN.

- 3. PRIOR TO SIGNING A CONTRACT WITH ANY INDIVIDUAL OR COMPANY OR THE HIRING OF ANY EMPLOYEE OR APPOINTEE, THE CITY SHALL REQUIRE THAT THE SAID ENTITY FILE, ON A FORM PROVIDED BY THE CLERK, A SWORN STATEMENT DETAILING THE POLITICAL CONTRIBUTIONS MADE TO ANY ELECTED CITY OFFICIAL WITHIN THE PAST 24 MONTHS. IN THE CASE OF A COMPANY MAKING A FILING, THE FILING SHALL DETAIL THE POLITICAL CONTRIBUTIONS MADE BY ANY ASSOCIATED POLITICAL ACTION COMMITTEE, OWNERS, PRINCIPAL OFFICERS, OR GOVERNMENTAL LIAISONS TO ANY ELECTED CITY OFFICIAL WITHIN THE PAST 24 MONTHS. IF TOTAL CONTRIBUTIONS TO CITY ELECTED OFFICIALS TOTAL LESS THAN \$500. WITHIN THE PAST 24 MONTHS THEN NO FILING IS REQUIRED.**
- 4. THE CLERK SHALL MAINTAIN RECORDS OF ALL FILINGS MADE UNDER THIS SECTION AND POST THEM TO THE CITY'S WEBSITE**
- 5. CONTRACTORS AND VENDORS SHALL DISCLOSE:**
 - a. THE IDENTITY OF ALL ENTITIES AND PERSONS WITH ANY FINANCIAL INTEREST, DIRECT OR INDIRECT, IN ANY CONTRACT OR MATTER THE VENDOR OR CONTRACTOR HAS PENDING BEFORE CITY COUNCIL.**
 - b. THE IDENTITY OF ALL ENTITIES AND PERSONS WITH ANY FINANCIAL INTEREST, DIRECT OR INDIRECT, IN ANY CONTRACT OR MATTER THE VENDOR OR CONTRACTOR HAS PENDING BEFORE OR WITHIN ANY OFFICE, DEPARTMENT, OR AGENCY OF THE CITY.**
 - c. THE ABOVE DISCLOSURES SHALL BE MADE IN WRITING AND BE MADE BY SWORN, NOTARIZED AFFIDAVIT, IN ACCORDANCE WITH CITY ORDINANCE AND APPLICABLE LAWS.**

E. ONE YEAR POST-EMPLOYMENT PROHIBITION.

- 1. SUBJECT TO STATE LAW, FOR ONE (1) YEAR AFTER EMPLOYMENT WITH THE CITY, A PUBLIC SERVANT SHALL NOT LOBBY OR APPEAR BEFORE THE CITY COUNCIL OR ANY CITY DEPARTMENT, AGENCY, BOARD, COMMISSION OR BODY OR RECEIVE COMPENSATION FOR ANY SERVICES IN CONNECTION WITH ANY MATTER IN WHICH HE OR SHE WAS DIRECTLY CONCERNED, PERSONALLY PARTICIPATED, ACTIVELY CONSIDERED OR ACQUIRED KNOWLEDGE WHILE WORKING FOR THE CITY.**
- 2. SUBJECT TO STATE LAW, FOR A PERIOD OF ONE (1) YEAR AFTER EMPLOYMENT WITH THE CITY, A PUBLIC SERVANT SHALL NOT ACCEPT EMPLOYMENT WITH ANY PERSON OR COMPANY THAT DID BUSINESS WITH THE CITY DURING THE FORMER PUBLIC SERVANT'S TENURE IF THAT PUBLIC SERVANT WAS IN ANY WAY INVOLVED IN THE AWARD OR MANAGEMENT OF THAT CONTRACT OR THE EMPLOYMENT WOULD REQUIRE THE SHARING OF CONFIDENTIAL INFORMATION.**

F. CONTRACTS VOIDABLE AND RESCINDABLE.

THE CITY'S PURCHASING DEPARTMENT SHALL INCLUDE IN CONTRACTS LANGUAGE WHICH PROVIDES THAT CITY CONTRACTS SHALL BE VOIDABLE OR RESCINDABLE AT THE DISCRETION OF THE MAYOR OR THE CITY ATTORNEY AT ANY TIME IF A PUBLIC SERVANT WHO IS A PARTY TO THE CONTRACT HAS AN INTEREST IN SUCH CONTRACT AND FAILS TO DISCLOSE SUCH INTEREST. SUCH CONTRACT SHALL ALSO BE VOIDABLE OR RESCINDABLE IF A LOBBYIST OR EMPLOYEE OF THE CONTRACTING PARTY OFFERS A PROHIBITED GIFT, GRATUITY, HONORARIA OR PAYMENT TO A PUBLIC SERVANT IN RELATION TO THE CONTRACT. A FINE SHALL BE ASSESSED TO THE CONTRACTOR IN THE EVENT OF A VIOLATION OF THIS SECTION OF THE CHARTER. IF APPLICABLE, THE ACTIONS OF THE CONTRACTOR, AND ITS REPRESENTATIVE LOBBYIST OR EMPLOYEE, SHALL BE REFERRED TO THE APPROPRIATE PROSECUTING AUTHORITIES.

G. LOBBYING REGISTRATION AND REPORTING.

A LOBBYIST, AS DEFINED BY STATE LAW, WHO LOBBIES WITHIN THE CITY GOVERNMENT SHALL BE REQUIRED TO REGISTER WITH THE CITY AND FILE A REPORT OF HIS OR HER LOBBYING

ACTIVITY. ALL DOCUMENTS FILED BY LOBBYISTS SHALL BE FILED WITH THE CITY CLERK, BE A PUBLIC RECORD AND ADDITIONALLY PUBLISHED ELECTRONICALLY OR OTHER FORMAT AS TO PROVIDE REMOTE OR ON-LINE ACCESS TO THE REPORTS. A FEE SHALL BE ASSESSED TO EACH LOBBYIST.

H. CAMPAIGN ACTIVITIES USING CITY PROPERTY OR DURING WORKING HOURS

CITY PUBLIC SERVANTS AND VOLUNTEERS ARE PROHIBITED FROM ENGAGING IN CAMPAIGN ACTIVITIES USING CITY PROPERTY OR ENGAGING IN SUCH ACTIVITY DURING WORKING HOURS. ELECTED CITY OFFICIALS ARE PROHIBITED FROM SOLICITING CITY PUBLIC SERVANTS TO WORK ON POLITICAL CAMPAIGN ACTIVITIES USING CITY PROPERTY OR DURING WORKING HOURS.

I. CAMPAIGN FINANCE REPORTS.

EVERY ELECTIVE OFFICER OR CANDIDATE FOR ELECTION SHALL MAKE PUBLIC THEIR CAMPAIGN CONTRIBUTIONS AND EXPENDITURES BY FILING A REPORT OR REPORTS THEREOF AS REQUIRED BY STATE LAW.

J. NOTICE

EVERY PUBLIC SERVANT, VOLUNTEER AND CITY CONTRACTOR IS TO RECEIVE TRAINING AND BE PROVIDED WITH A COPY OF THESE ETHICAL STANDARDS AS AMENDED UPON PASSAGE OF THIS CHARTER OR AT TIME OF APPOINTMENT AND OR HIRE OR THE COMMENCEMENT OF SERVICES. AN UP DATED ORIENTATION AS MAY BE NECESSARY FROM TIME TO TIME. AN APPROPRIATE RECORD SHALL BE KEPT.⁵

⁵ Amended in Committee of the Whole 10/13/2016 and 2/28/2017