



Proposed Amendments to the City Code of Ethics

City Council Work Session
July 25, 2016

Introduction

- Purpose of meeting – review the most significant proposed amendments to the Code of Ethics.
- Schedule for adoption of Code of Ethics revisions.
- Commission's Rules will be revised after Code amendments are adopted.

Legislative Purpose: City Code §1.3.101

- **Removal of mandatory language**
 - Purpose: avoid ethics complaints alleging the legislative purpose was violated.

Definitions:

City Code §1.3.102

- “Administrative Officers” – revised to refer to the Charter which includes all department heads, City Attorney, City Clerk, CFO, City Auditor and Chief of Staff.
- “Appointees” – deleted because they are administrative officers.
- “City” – deleted unnecessary language.
- “Direct Official Action” – deleted unnecessary language.
- “Gift” – deleted because addressed in the gift section.

Definitions:

City Code §1.3.102

➤ Added Definitions:

- “Advisory Opinion”
- “Clear and Convincing Evidence”
- “Commission”
- “Complaint”
- “Confidential Information”
- “Covered Persons”

Definitions:

City Code §1.3.102

➤ Added Definitions cont'd:

- “Covered Persons Subject to the Commission’s Jurisdiction”
- “Covered Persons Subject to Human Resources Jurisdiction”
- “Immediate Family Member”
- “Inquiry for Consideration”
- “Preponderance of the Evidence”
- “Substantial Interest”

Independent Ethics Commission

City Code §1.3.103

- City Attorney Subject of Complaint – Council has authority to appoint legal advisor, secretary, and prosecutor (Draft Ord. §1.3.103(G)).
- Complaints/Inquiries – clarified those covered persons subject to the Commission’s jurisdiction and those subject to Human Resources’ jurisdiction (Draft Ord. §1.3.103(K)).
- Removed independent contractors from the Commission’s jurisdiction (Draft Ord. §1.3.103(K)(1)).

Independent Ethics Commission

City Code §1.3.103

➤ Complaints/Inquiries – Filing Requirements

- Verification statement added (Draft Ord. §1.3.103(L)).

➤ Commission Initial Review

- Adds numerous options for the Commission to dismiss a complaint (Draft Ord. §1.3.103(M)).
- Dismissed complaints are confidential – adds clarity to provision (Draft Ord. §1.3.103(N)).

Independent Ethics Commission

City Code §1.3.103

- **Commission Investigation/Review**
 - Adds provision allowing Commission to consider potential violations it discovers during its investigation.
 - Clarifies current provision that the Commission's recommendation to Council and deliberations are confidential.

(Draft Ord. §1.3.103(O))

Independent Ethics Commission

City Code §1.3.103

- **City Attorney Advisory Opinion:**
 - Defense to an ethics complaint.
 - Must be in writing (Draft Ord. §1.3.103(P)).
- **Legal Representation – incorporates language from Resolution No. 41 – 13 with minor changes (Draft Ord. §1.3.103(Q)).**

City Council Procedures: City Code § 1.3.104

- Incorporates language from Resolution No. 58–13 with significant changes.
- Increases Council's options after receiving the Commission's recommendation (Draft Ord. §1.3.104(A)).
- Includes process for Council's notice to proceed with allegations of ethics violations and for the accused to request a hearing. (Draft Ord. § 1.3.104(B))

City Council Procedures: City Code § 1.3.104

- Automatic recusal of Councilmembers named in the complaint (subject to the rule of necessity) (Draft Ord. § 1.3.104(B)(3)).
- Allows accused to request a stay if criminal investigation/charges pending (Draft Ord. § 1.3.104(B)(4)).

City Council Procedures: City Code § 1.3.104

- **Administrative hearing process:**
 - Hearing Officer chosen by a supermajority of Council.
 - Hearing Officer decision binding.
 - Council imposes sanctions (if any).
 - Council adoption of Hearing Officer decision and imposition of sanctions is final agency action.

(Draft Ord. § 1.3.104(C))

City Council Procedures: City Code § 1.3.104

➤ Sanctions

- Adds oral or written reprimand.
- Adds option to suspend covered persons.

(Draft Ord. § 1.3.104(D))

- ## ➤ Prohibits ex-parte communications with Council or the Hearing Officer regarding pending matters (Draft Ord. § 1.3.104(E)).

Gifts:

City Code § 1.3.105

- Adds immediate family members to gift prohibition (Draft Ord. § 1.3.105(A)).
- Commission can approve additional exceptions (Draft Ord. § 1.3.105(B)(19)).
- \$50.00 gift limit exception:
 - Adds language to adjust the \$50.00 gift limit in step with the state.
 - Removes prohibition on cash or cash equivalents such as gift cards, checks, or money orders (Draft Ord. § 1.3.105(B)(2)).

Gifts:

City Code § 1.3.105

- \$50.00 gift limit exception cont'd:
 - Charity events – cost is amount the organizer reports to the IRS as the non-deductible amount.
 - Event tickets – immediate family members must attend with a covered person (excludes elected officials – covered by § 1.3.105(B)(15)).

(Draft Ord. § 1.3.105(B)(2))

Gifts:

City Code § 1.3.105

- Removed repetitive language in gift exceptions that is covered by general gift language (Draft Ord. §§ 1.3.105(A) & (B)).
- Language removed from City Code §1.3.105(B)(5), §1.3.105(B)(8), §1.3.105(B)(9)(deleted), and §1.3.105(B)(9)(new)

Gifts:

City Code § 1.3.105

- Gift Prohibition Exception: Fees, meals, lodging, and transportation for conferences, seminars, events, or meetings:
 - Scheduled to deliver a speech, participate in a presentation/panel, or receive an award; OR
 - Cost paid pursuant to a vendor agreement or contract; OR
 - Cost paid by a governmental entity or 501(c)(3) (Draft Ord. § 1.3.105(B)(10)).

Gifts:

City Code § 1.3.105

➤ Added gift exceptions:

- “A non-pecuniary award of reasonable value and frequency publicly presented by an IRC 501(c)(3) organization in recognition of public service” (Draft Ord. § 1.3.105(B)(16)).
- “Discounts that are similarly available to all employees of the City, or discounts that are offered to the public generally or to a large segment of the public (i.e., all uniformed personnel, all government employees, or all first responders) (Draft Ord. § 1.3.105(B)(17)).

Conflicts of Interest/Confidential Information: City Code § 1.3.107

- Deleted introductory language that created potential violations.
- Clarified financial interests provision to prohibit use of confidential information to further financial or personal gain. (Draft Ord. § 1.3.107(A)).
- Added disclosure of confidential information as a violation (Draft Ord. § 1.3.107(B)).

Conflicts of Interest/Confidential Information: City Code § 1.3.107

- Clarified prohibition of preferential treatment to private organizations or individuals (Draft Ord. § 1.3.107(D)).
- Simplified prohibition on participating in matters in which a covered person/ immediate family member has a substantial interest (Draft Ord. § 1.3.107(E)). Added definition of “substantial interest” (Draft Ord. §1.3.102).
- Simplified City Code § 1.3.107(F) & (G).

Conflicts of Interest/Appearance of Impropriety: City Code § 1.3.108

- Deleted provisions prohibiting appearance of ethical violations or appearance of impropriety (Draft Ord. § 1.3.107(H) & (I)).
- New Section: Appearance of Impropriety
 - Covered person should consider (but is not required to) disclosure and recusal OR disclosure and declaration of impartiality (Draft Ord. § 1.3.108).

Conflicts of Interest/Disclosure and Recusal or Declaration: City Code § 1.3.109

- Mandatory disclosure and recusal for prohibited conflicts of interest.
- Voluntary disclosure and recusal or disclosure and declaration of impartiality for appearances of impropriety.
- Recusal defined.

Conflicts of Interest/Exception: City Code § 1.3.110

- It is not a conflict of interest to take action on the annual budget or annual appropriations ordinance for the City or Utilities, even if the person or an immediate family member would benefit.

No Private Right of Action: City Code § 1.3.113

- The Ethics Code does not create a private right of action against the City or covered persons based on noncompliance with its provisions.

Thank You!

