

ORDINANCE No.

115548

COUNCIL BILL No.

108316

Law Department

The City

AN ORDINANCE amending the Code of Ethics (Seattle Municipal Code Chapter 4.16; Ordinance 108882) to provide for resolving inadvertent, minor violations without hearing; to identify non-disclosable information as privileged or proprietary information; to provide for reporting certain contracts to the Board of Ethics and revise certain Board procedures and powers; and amending SMC Sections 4.16.020, 4.16.070, and 4.16.090 and adding a new section 4.16.075 therefor.

Honorable President:

Your Committee on

F.I.

to which was referred the within Co
report that we have considered the

COMPTROLLER FILE No.

Introduced:	OCT 15 1990	By:	SIBONGA
Referred:	OCT 15 1990	To:	Finance, Budget and Management
Referred:		To:	
Referred:		To:	
Reported:	FEB 25 1991	Second Reading:	FEB 25 1991
Third Reading:	FEB 25 1991	Signed:	FEB 25 1991
Presented to Mayor:	FEB 25 1991	Approved:	MAR 1 1991
Returned to City Clerk:	MAR 1 1991	Published:	
Vetoed by Mayor:		Veto Published:	
Passed over Veto:		Veto Sustained:	

OK

Council vote: 9

Department

The City of Seattle--Legislative Department

Date Reported
and Adopted

REPORT OF COMMITTEE

President:

Committee on

Finance

was referred the within Council Bill No.

108316

that we have considered the same and respectfully recommend that the same:

Held to Jan 14, 1990

PASS 1-0 Feb 20, 1991

final vote 9-0

Committee Chair

ORDINANCE

115548

AN ORDINANCE amending the Code of Ethics (Seattle Municipal Code Chapter 4.16; Ordinance 108882) to provide for resolving inadvertent, minor violations without hearing; to identify non-disclosable information as privileged or proprietary information; to provide for reporting certain contracts to the Board of Ethics and revise certain Board procedures and powers; and amending SMC Sections 4.16.020, 4.16.070, and 4.16.090 and adding a new section 4.16.075 therefor.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Seattle Municipal Code Section 4.16.020 (Ordinance 108882, § 4.16.020, as amended by Ordinance 109950, § 1) is further amended by adding a new subsection C, as follows:

C. This Code shall be interpreted and applied in a manner consistent with the maxim that "De minimis non curat lex" and to allow inadvertent minor violations to be corrected and cured without full hearing in conformance with the spirit and purpose of this Code.

Section 2. Subsection A of Seattle Municipal Code Section 4.16.070 (Ordinance 108882, § 4.16.070 as amended by Ordinance 109950 § 1) is further amended as follows:

((A)) No current City officer or employee shall:

1. Disqualification From Acting On City Business.

a. Engage in any transaction or activity, which is, or would to a reasonable person appear to be, in conflict with or incompatible with the proper discharge of official duties, or which impairs, or would to a reasonable person appear to impair, the officer's or employee's independence of judgment or action in the performance of official duties and fail to disqualify him or herself from official action in those instances where the conflict occurs;

1
2 b. Have a financial or other private
3 interest, direct or indirect, personally or through a member
4 of his or her immediate family, in any matter upon which the
5 officer or employee is required to act in the discharge of his
6 or her official duties, and fail to disqualify himself or
herself from acting or participating;

7 c. Fail to disqualify himself or herself from
8 acting on any transaction which involves the City and any
9 person who is, or at any time within the preceding twelve-
10 month period has been a private client of his or hers, or of
his or her firm or partnership;

11 d. Have a financial or other private
12 interest, direct or indirect, personally or through a member
13 of his or her immediately family, in any contract or
14 transaction to which the city or any city agency may be a
15 party, and fails to disclose such interest to the appropriate
16 city authority prior to the formation of the contract or the
17 time the City or City agency enters into the transaction;
18 provided, that this paragraph shall not apply to any contract
19 awarded through the public bid process in accordance with
applicable law.

20 2. Improper Use Of Official Position.

21 a. Use his or her official position for a
22 purpose that is, or would to a reasonable person appear to be
23 primarily for the private benefit of the officer or employee,
24 rather than primarily for the benefit of the City; or to
25 achieve a private gain or an exemption from duty or
26 responsibility for the officer or employee or any other
person;

27 b. Use or permit the use of any person,
28 funds, or property under his or her official control,

1 direction, or custody, or of any City funds or City property,
2 for a purpose which is, or to a reasonable person would appear
3 to be, for other than a City purpose (~~((the-private-benefit-of~~
4 ~~the-officer-or-employee-or-any-other-person-or-entity))~~);
5 provided, that nothing shall prevent the private use of City
6 property which is available on equal terms to the public
7 generally (such as the use of library books or tennis courts);
8 (~~(or)~~) the use of City property in accordance with municipal
9 policy for the conduct of official City business (such as the
10 use of a city automobile), if in fact, the property is used
11 appropriately; or the use of City property for participation
12 of the City or its officials in activities of associations of
13 governments or governmental officials.

14 c. Except in the course of official duties,
15 assist any person in any City transaction where such City
16 officer or employee's assistance is, or to a reasonable person
17 would appear to be, enhanced by that officer or employee's
18 position with the City; provided that this subsection
19 4.16.079A1c shall not apply to: any officer or employee
20 appearing on his or her own behalf or representing himself or
21 herself as to any matter in which he or she has a proprietary
22 interest, if not otherwise prohibited by ordinance;

23 d. Regardless of prior disclosure thereof,
24 have a financial interest, direct or indirect, personally or
25 through a member of his or her immediate family, in a business
26 entity doing or seeking to do business with the City, and
27 influence or attempt to influence the selection of, or the
28 conduct of business with, such business entity by the City.

3. Accept Gifts or Loans.

a. Solicit or receive any retainer, gift,
loan, entertainment, favor, or other thing of monetary value

1 from any person or entity where the retainer, gift, loan,
2 entertainment, favor, or other thing of monetary value has
3 been solicited, or received or given or, to a reasonable
4 person, would appear to have been solicited, received or given
5 with intent to give or obtain special consideration or
6 influence as to any action by such officer or employee in his
7 or her official capacity; provided, that nothing shall
8 prohibit contributions which are solicited or received and
9 reported in accordance with applicable law.

10 4. Disclose Privileged Information.

11 a. Disclose or use any privileged or
12 proprietary information gained by reason of his or her
13 official position for the immediate or anticipated personal
14 gain or benefit of the officer or employee or any other person
15 or entity; provided, that nothing shall prohibit the
16 disclosure or use of information which is a matter of public
17 knowledge, or which is available to the public on request.

18 5. Hold Financial or Beneficial Interest in City
19 Transaction.

20 a. Regardless of prior disclosure thereof
21 hold or acquire a beneficial interest, direct or indirect,
22 personally or through a member of his or her immediate family,
23 in any contract which, in whole or in part, is or which may
24 be, made by, through, or under the supervision of such officer
25 or employee or which may be made for the benefit of his or her
26 office; or accept, directly or indirectly, any compensation,
27 gratuity, or reward in connection with such contract from any
28 other person or entity beneficially interested therein, in
violation of Chapter 42.23 RCW;

b. Regardless of prior disclosure thereof, be
beneficially interested, directly or indirectly, in any

1
2 contract or transaction which may be made by, through or under
3 the supervision of such officer, in whole or in part, or which
4 may be made for the benefit of his office, or accept, directly
5 or indirectly, any compensation, gratuity or reward in
6 connection with such contract or transaction from any other
7 person beneficially interested therein. This subsection shall
8 not apply to the furnishing of electrical, water, other
9 utility services or other services by the City at the same
10 rates and on the same terms as are available to the public
11 generally.

12 Section 3. Subsections B and C of Seattle Municipal Code
13 Section 4.16.070 (Ordinance 108882 § 14.16.070 as amended by
14 Ordinance 109950) is renumbered as Section 4.16.075, retitled
15 "Prohibited Conduct After Leaving City", and amended as
16 follows:

17 Prohibited Conduct After Leaving City

18 ((B-)) A. No former officer or employee shall, during
19 the period of one year after leaving city office or
20 employment:

21 1. Disclose or use any privileged or proprietary
22 information gained by reason of his/her City employment for
23 his/her gain or anticipated gain, or for the gain or
24 anticipated gain of any person, unless the information is a
25 matter of public knowledge or is available to the public on
26 request;

27 2. Assist any person in proceedings involving the
28 agency of the City with which he/she was previously employed,
or on a matter in which he or she was officially involved,
participated or acted in the course of duty;

3. Represent any person as an advocate in any
matter in which the former officer or employee was officially

1 involved while a City officer or employee.

2 4. Participate as a competitor in any competitive
3 selection process for a City contract in which he or she
4 assisted the City in determining the project or work to be
5 done or the process to be used.

6 B. A City officer, who contracts with a former City
7 officer or employee for expert or consultant services within
8 one year of the latter's leaving City office or employment,
9 shall promptly inform the Administrator about the agreement.

10 C. The prohibitions of Sections ((4-16-070B2)) 4.16.075
11 A 2 and ((4-16-070B3)) 4.16.075 A 3 shall not apply to former
12 employees acting on behalf of a governmental agency unless
13 such assistance or representation is adverse to the interest
14 of the City.

15 Section 4. Seattle Municipal Code Section 4.16.090
16 (Ordinance 108882, § 4.16.090 as amended by Ordinance 109950,
17 § 1) is further amended as follows:

18 4.16.090 Complaints, investigations, hearings, and enforce-
19 ment

20 A. Any person may file a complaint alleging a violation
21 of this chapter. If such complaint is filed by a member of
22 the Board of Ethics, he or she is then disqualified from
23 participating in any proceedings that may arise from the
24 complaint.

25 B. The complaint shall be in writing and shall be
26 signed by the complainant. The written complaint shall state
27 the nature of the alleged violation(s) the dates(s), time and
28 place of each occurrence, and name of the person(s) charged
with the violation(s). The complaint shall be filed with the
Elections Administrator who shall provide a copy to the person
charged with a violation. The complainant shall provide the

1 Administrator with all available documentation or other
2 evidence to demonstrate a reason for believing that a
3 violation has occurred.

4 C. Within thirty days after receipt of a complaint, the
5 Administrator shall conduct a preliminary investigation;
6 provided, that the Administrator may request that the Board
7 extend the time for the completion of such preliminary
8 investigation, and if the Board determines that such extension
9 is necessary or desirable and would not be prejudicial to the
10 person charged with the violation, the Board shall grant the
11 extension; provided further, that if the Board determines that
12 the preliminary investigation must be completed in less than
13 thirty days in order to avoid prejudice or irreparable harm to
14 the person charged with the violation, the Board shall order
15 the Administrator to complete the preliminary investigation in
16 a shorter period of time, and the Administrator shall comply.

17 D. If the Administrator determines, after preliminary
18 investigation, that there are no reasonable grounds to believe
19 that a violation has occurred, the Administrator shall dismiss
20 the complaint. If the Administrator does so dismiss the
21 complaint, he or she shall do so in writing, setting forth the
22 facts and the provisions of law upon which the dismissal is
23 based, and shall provide a copy of the written dismissal to
24 the complainant, to the person charged with the violation and
25 to the Board.

26 E. ~~((If, after a preliminary investigation, the))~~ The
27 Administrator ~~((does not dismiss the complaint or ask for~~
28 ~~additional time to conduct a more extensive investigation, he~~
~~or she))~~ shall refer ~~((the))~~ a complaint to the Board for
hearing after his or her preliminary investigation, unless the
~~((the matter is resolved at a prehearing conference between))~~

1 Administrator (~~((and-the-person-charged-with-the-violation,-and~~
2 ~~the-prehearing-resolution-is-approved-by-the-Board,-all-in~~
3 ~~accordance-with-applicable-rules-and-regulations-))~~ has
4 dismissed the complaint; the Administrator requests from the
5 Board more time to conduct an investigation; the Administrator
6 has determined that the violation was inadvertent and minor
7 and was or is being satisfactorily corrected and cured; or
8 with respect to a knowing or material violation, the
9 Administrator recommends to the Board a settlement.

10 (~~(F---All-hearings-that-are-held-to-determine-whether-the~~
11 ~~provisions-of-this-chapter-have-been-violated-shall-be~~
12 ~~conducted-in-conformance-with-Board-rules-and-regulations~~
13 ~~except-as-otherwise-provided-in-this-chapter-))~~

14 F. ((G-)) Within thirty days from the date the
15 Administrator refers a complaint to the Board for hearing, the
16 Board shall hold a hearing and issue a written determination
17 stating whether the chapter has been violated and setting
18 forth the facts and the provisions of law upon which this
19 determination is based. A copy of said determination shall be
20 delivered to the complainant, to the person charged with the
21 violation and, where appropriate, to the person's superior.

22 G. ((H-)) All hearings hereunder shall be conducted as
23 "contested case" hearings under the Administrative Code (~~((of~~
24 ~~the-City))~~), Seattle Municipal Code Chapter 3.02 (Ordinance
25 102228) and the Board's rules and regulations.

26 H. ((I-)) If the Board determines that a City officer or
27 employee has violated the provisions of this chapter, the
28 Board may recommend that the officer or employee be subject to
disciplinary action. In addition to any other penalty herein
or otherwise provided by law, a violation shall be cause for
suspension, discharge, or removal from office, or such other

1 disciplinary action as may, by the appropriate City authority,
2 be deemed necessary and proper, and consistent with personnel
3 ordinances and rules. A written report of the disciplinary
4 action taken as a result of the Board recommendation shall be
5 made by the appropriate City authority to the Board within
6 fourteen calendar days after receipt of the Board's
7 recommendation; provided, that this section shall not derogate
8 from employee rights under any collective bargaining agreement
9 or city personnel ordinance, or rules promulgated thereunto.
10 If the appropriate City authority determines that the written
11 report of disciplinary action taken as a result of the Board
12 recommendation required in the section cannot be made to the
13 Board within fourteen calendar days after receipt of the
14 Board's recommendation, because of procedures prescribed under
15 any collective bargaining agreement, personnel ordinance, or
16 rule promulgated thereunto, the appropriate City authority
17 shall so report to the Board within fourteen calendar days
18 after receipt of the Board's recommendation, stating the date
19 on which the written report of disciplinary action taken will
20 be submitted to the Board. If the violation involves
21 prohibited conduct of a former officer or employee, the Board
22 may recommend to the administering City authority that no
23 contract be made or that the contract be terminated and that
24 proceedings be begun anew in order to prevent injury to the
25 City or to avoid an unfair advantage accruing to a competitor
26 by reason of the violation. Upon receipt of the written
27 report of the disciplinary action taken, or in the event no
28 report is received, the Board shall review such matter and
make such further recommendation as may be appropriate.

(To be used for all Ordinances except Emergency.)

Section 5..... This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 25th day of February, 1991,
and signed by me in open session in authentication of its passage this 25th day of
February, 1991.

President..... of the City Council.

Approved by me this 1st day of March, 1991.

Filed by me this 1st day of March, 1991.

Mayor.

Attest:

City Comptroller and City Clerk.

(SEAL)

Published.....

By

Deputy Clerk.

☐ PUBLISH ☐ DO NOT PUBLISH

CITY ATTORNEY

CS 8.1.6

Your
Seattle
Board of Ethics
Fair Campaign Practices Commission



DAVID R. LORD
Seattle Office

June 21, 1990

RECEIVED OMB
JUN 22 1990

The Honorable Paul Kraabel
President, Seattle City Council
Eleventh Floor, Municipal Building
Seattle, WA 98104

846193

Dear President Kraabel:

Under the leadership of former Chair Mauree Mckaen, members of the Board of Ethics convened an office retreat in July, 1989, to address the Code of Ethics and review ordinance provisions that needed definition and clarification of language. We found some language woefully inadequate, and more than once, discovered crippling limitations.

The Law Department has prepared amendatory language (copy enclosed) of SMC 4.16 (Ordinance 109950), following the guidelines requested by the Board of Ethics. It should be mentioned that passage of this legislation will in no way create additional costs to the City of Seattle.

The amended ordinance provides a method for resolving inadvertent, minor violations without hearing; it identifies non-disclosable information as privileged or proprietary information; and sets forth restrictions on contracting with the City, as well as termination of a City contract by a former City officer or employee should a violation occur.

The members of the Board/FCPC urge your support and passage of this improved legislation.

Very truly yours,

David R. Lord
Chairperson

DRL/lg
cc: Andrew Lofton, Director, OMB
Enclosure

An equal employment opportunity - affirmative action employer.

Seattle Board of Ethics/Fair Campaign Practices Commission, 603 Seattle Municipal Building, Seattle, Washington 98104 (206) 684-8550

TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY
THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

Salvador Litonga

_____	_____
_____	_____
_____	_____
_____	_____

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO:

PRESIDENT'S SIGNATURE

STATE OF WASHINGTON - KING COUNTY

2515
City of Seattle

—ss.

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

ORD: 115548

was published on

03/08/91

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

M. Skogstad
Subscribed and sworn to before me on

03/11/91

[Signature]
Notary Public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE

AN ORDINANCE amending the Code of Ethics (Seattle Municipal Code Chapter 4.16; Ordinance 108882) to provide for resolving inadvertent, minor violations without hearing; to identify non-disclosable information as privileged or proprietary information; to provide for reporting certain contracts to the Board of Ethics and revise certain Board procedures and powers; and amending SMC Sections 4.16.020, 4.16.070, and 4.16.090 and adding a new section 4.16.075 therefor.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Seattle Municipal Code Section 4.16.020 (Ordinance 108882, § 4.16.020, as amended by Ordinance 109950, § 1) is further amended by adding a new subsection C, as follows:

C. This Code shall be interpreted and applied in a manner consistent with the maxim that "De minimis non curat lex" and to allow inadvertent minor violations to be corrected and cured without full hearing in conformance with the spirit and purpose of this Code.

Section 2. Subsection A of Seattle Municipal Code Section 4.16.070 (Ordinance 108882, § 4.16.070 as amended by Ordinance 109950 § 1) is further amended as follows:

- ((A)) No current City officer or employee shall:
1. Disqualification From Acting On City Business.
 - a. Engage in any transaction or activity, which is, or would to a reasonable person appear to be, in conflict with or incompatible with the proper discharge of official duties, or which impairs, or would to a reasonable person appear to impair, the officer's or employee's independence of judgment or action in the performance of official duties and fail to disqualify him or herself from official action in those instances where the conflict occurs;
 - b. Have a financial or other private interest, direct or indirect, personally or through a member of his or her immediate family, in any matter upon which the officer or employee is required to act in the discharge of his or her official duties, and fail to disqualify himself or herself from acting or participating;
 - c. Fail to disqualify himself or herself from acting on any transaction which involves the City and any person who is, or at any time within the preceding twelve-month period has been a private client of his or hers, or of his or her firm or partnership;
 - d. Have a financial or other private interest, direct or indirect, personally or through a member of his or her immediate family, in any contract or transaction to which the city or any city agency may be a party, and fails to disclose such interest to the appropriate city authority prior to the formation of the contract or the time the City or City agency enters into the transaction; provided, that this paragraph shall not apply to any contract awarded through the public bid process in accordance with applicable law.

e. Fail to disqualify himself or herself from acting on any transaction which involves the City and any person who is, or at any time within the preceding twelve-month period has been a private client of his or hers, or of his or her firm or partnership;

f. Have a financial or other private interest, direct or indirect, personally or through a member of his or her immediate family, in any contract or transaction to which the city or any city agency may be a party, and fails to disclose such interest to the appropriate city authority prior to the formation of the contract or the time the City or City agency enters into the transaction; provided, that this paragraph shall not apply to any contract awarded through the public bid process in accordance with applicable law.

or entity; provided, that nothing shall disclosure or use of information which knowledge, or which is available to the

5. Hold Financial or Beneficial Interest.

a. Regardless of prior hold or acquire a beneficial interest, personally or through a member of his in any contract which, in whole or in be, made by, through, or under the supervision or employee or which may be made for the office; or accept, directly or indirectly, gratuity, or reward in connection with other person or entity beneficially interested in violation of Chapter 42.23 RCW;

b. Regardless of prior beneficially interested, directly or indirectly, in any contract or transaction which may be under the supervision of such officer, in which may be made for the benefit of his office or indirectly, any compensation, gratuity, or reward in connection with such contract or transaction person beneficially interested therein; not apply to the furnishing of electrical utility services or other services by rates and on the same terms as are available generally.

Section 3. Subsections B and C of Section 4.16.070 (Ordinance 108882 § 1; Ordinance 109950) is renumbered as Section "Prohibited Conduct After Leaving City" follows:

Prohibited Conduct After Leaving City

((B)) A. No former officer or employee during the period of one year after leaving employment:

1. Disclose or use any privileged information gained by reason of his/her position, or his/her gain or anticipated gain, or the anticipated gain of any person, unless the matter of public knowledge or is available upon request;

2. Assist any person in procuring business from any agency of the City with which he/she was involved or on a matter in which he or she was participated or acted in the course of employment;

3. Represent any person as an agent in any matter in which the former officer or employee was involved while a City officer or employee;

4. Participate as a consultant or advisor in any matter in which the former officer or employee was involved while a City officer or employee.