

Ordinance No. 123010

Council Bill No. 116524

AN ORDINANCE related to the Seattle Ethics code, amending sections 4.16.020 to state the purpose of the Ethics Code in positive terms; 4.16.030 to add new definitions and bring some City contractors under the Commission's jurisdiction; 4.16.070 to expand the list of prohibited financial interests, require disclosure of appearances of conflicts of interest, create a mechanism for waiving the bar on dealing with former employers and clients, and to make several other changes intended to clarify the Ethics Code's prohibitions; 4.16.075 to extend from one year to two the bar on assisting others in matters in which an individual subject to the Ethics Code participated while a City employee, and to limit communications on behalf of others between former employees and their employing agencies; and 4.16.090 to create a mechanism in the Ethics Code for the Commission to administratively dismiss complaints, and to clarify how hearings are scheduled.

Related Legislation File:

Date Introduced and Referred: <u>5-18-09</u> 5-16-09	To: (committee): Planning, Land Use & Neighborhoods (PLUNC)
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: <u>6.15.09</u>	Date Presented to Mayor: <u>6.16.09</u>
Date Signed by Mayor: <u>6-22-09</u>	Date Returned to City Clerk: <u>6-24-09</u>
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Date Veto Published:	Date Returned Without Signature:

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Spang & Curran

Committee Action:

Date	Recommendation	Vote
<u>6/10/9</u>	<u>APPROVE</u>	<u>4-3-0</u>
	<u>AS AMENDED</u>	<u>SC, TD, DG</u>

This file is complete and ready for presentation to Full Council.

Full Council Action:

Date	Decision	Vote
<u>6/15/09</u>	<u>Pass</u>	<u>6-2 (TR excused, BM no, RM no)</u>

Law Department

ORDINANCE 123010

AN ORDINANCE related to the Seattle Ethics code, amending sections 4.16.020 to state the purpose of the Ethics Code in positive terms; 4.16.030 to add new definitions and bring some City contractors under the Commission's jurisdiction; 4.16.070 to expand the list of prohibited financial interests, require disclosure of appearances of conflicts of interest, create a mechanism for waiving the bar on dealing with former employers and clients, and to make several other changes intended to clarify the Ethics Code's prohibitions; 4.16.075 to extend from one year to two the bar on assisting others in matters in which an individual subject to the Ethics Code participated while a City employee, and to limit communications on behalf of others between former employees and their employing agencies; and 4.16.090 to create a mechanism in the Ethics Code for the Commission to administratively dismiss complaints, and to clarify how hearings are scheduled.

WHEREAS, the Ethics and Elections Commission has completed a full scale review of the Ethics Code, the first full scale review the Code has undergone in the past twenty years; and

WHEREAS, over the past twenty years, several other cities have adopted Ethics Codes, allowing the Commission to draw on best practices from around the nation; and

WHEREAS, the Ethics and Elections Commission determined that certain amendments to the Ethics Code can make the Code easier to understand for the public and the City employees to whom the Code applies; and

WHEREAS, the official duties of an elected official and his or her staff members include providing constituent services on an impartial basis to people who seek assistance from their elected representatives in dealing with City departments; and

WHEREAS, the Ethics and Elections Commission determined that taking advantage of new technologies to enhance transparency can create a better informed citizenry, and serve as an important element of an effective Ethics Code; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 4.16.020, which was last amended by Ordinance 115548, is amended as follows:



1 A. The City finds that the proper operation of democratic representative government requires
2 that public officers and employees be independent, impartial, and responsible to the people; that
3 government decisions and policy be made in the proper channels of the governmental structure;
4 that public office not be used for personal gain; and that the public have confidence in the
5 integrity of its government. Accordingly, it is the purpose of this chapter to establish ethical
6 standards of conduct for all officers and employees of the City, whether elected or appointed,
7 paid or unpaid; to set forth those acts that are incompatible with such standards; to require
8 disclosure by such officers and employees of private financial or other interests in matters
9 affecting the City; and to provide effective means for enforcement thereof. This chapter is not to
10 be construed so as to impair the ability of City officers and employees to participate in
11 ceremonial, representational, or informational functions in the pursuit of their official duties.
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15 B. City officers and employees will demonstrate the values of integrity in the performance of the
16 City's business, accountability to the law and to the people we serve, stewardship of the City's
17 resources, and independence in the performance of our jobs. City employees should recognize
18 that public service is a sacred trust, and should strive to live up to the highest ethical standards.
19

20 C. This chapter shall be liberally construed in favor of protecting the public's interest in full
21 disclosure of conflicts of interest and promoting ethical standards of conduct for City officers
22 and employees.

23 ~~((C))~~D. This Code shall be interpreted and applied ~~((in a manner consistent with the maxim that~~
24 ~~"De minimis non curat lex" and))~~ to allow inadvertent minor violations to be corrected and cured
25 without full hearing in conformance with the spirit and purpose of this Code.
26



1 Section 2. Section 4.16.030, which was last amended by Ordinance 122242, is amended
2 as follows:

3 As used in this chapter, the following terms shall have the meanings indicated.

4
5 ~~((A.))~~ "Ad hoc advisory committee" means: 1) any advisory committee expressly designated by
6 ordinance as "ad hoc"; or 2) any advisory committee created by means other than by federal or
7 state law, City Charter, or City ordinance, including by resolution, executive order, or other
8 similar action.

9
10 "Administrator" means the Executive Director of the Seattle Ethics and Elections
11 Commission.

12 "Advisory committee" means a committee, board, commission or other similar City
13 entity that does not have the authority to enact, administer, interpret, or execute City laws, but
14 does provide advice or recommendations to a City entity that does have such authority.

15
16 "Appointing authority" means a person authorized by ordinance or Charter to employ
17 others on behalf of the City, usually the head of a department. With reference to a City
18 contractor it is the person who is authorized to award the contract.

19 ~~((B.))~~ "Assist" ((shall have the meaning set forth at RCW 42.18.050.1)) means to act, or offer or
20 agree to act, in such a way as to help, aid, advise, furnish information to, or otherwise provide
21 assistance to another person, believing that the action is of help, aid, advice, or assistance to the
22 person and with intent so to assist such person.

23
24 ~~((C.))~~ "Board of Ethics" or "Board" or "Commission" means the Seattle Ethics and Elections
25 Commission established by Section 3.70.010.



1 ((D-)) "City agency" means every department, office, board, commission, or committee of the
2 City, or any subdivision thereof, but excludes public corporations and ad hoc advisory
3 committees.

4 "City contractor" means an individual who spends more than 1,000 hours in any twelve-
5 month period providing services to a City agency under a contract, other than a contract of
6 employment.

7 "City employee" means every individual appointed to a position of employment in any
8 City agency.

9 ((E-)) "City officer ((or employee))" means every individual elected or appointed to an office
10 ((or position of employment)) in any City agency, whether such individual is paid or unpaid.
11 ((For purposes of Sections 4.16.090 G and 4.16.100 B only, "City employee" also includes every
12 individual who was a City employee at the time of the act or omission that is alleged to have
13 violated this chapter, even though he or she is not a City employee at the time of the hearing or
14 appeal provided under those subsections:))

15 "Communicate," for the purposes of SMC 4.16.075, means to communicate in any form,
16 including, without limitation, personally, through another person, by letter, by electronic mail, or
17 by telephone.

18 "Confidential Information" means (i) specific information, rather than generalized
19 knowledge, that is not available to a person who files a public records request, and (ii)
20 information made confidential by law.

21 "Covered Individual" means any City officer, City employee, or City volunteer.
22 Covered Individual also includes every individual who was a City officer, City employee, or City
23



1 volunteer at the time of the act or omission that is alleged to have violated this chapter, even if he
2 or she no longer has that status.

3 "City volunteer" means someone who volunteers services to the City.

4 "Employee member of an advisory committee" means a paid City officer or employee
5 who serves on an advisory committee by virtue of their paid position with the City.

6 "Executive Director" means the Executive Director of the Seattle Ethics and Elections
7 Commission.

8
9 ~~((F.))~~ "Immediate family" means a spouse or domestic partner, child, child of a spouse or
10 domestic partner, sibling, sibling of a domestic partner, brother-in-law, sister-in-law, parent,
11 parent of a spouse or domestic partner, a person for whom the Covered Individual is a legal
12 guardian, or a person claimed as a dependent on the Covered Individual's most recently filed
13 federal income tax return~~((:~~

14
15 1. ~~_____ A spouse or domestic partner as contemplated by Sections 4.30.010 _____ 4.30.020;~~

16 2. ~~_____ Any dependent parent, parent-in-law, child or son-in-law or daughter-in-law; or~~

17 3. ~~_____ Any parent, parent-in-law, child, son-in-law, daughter-in-law, sibling, uncle, aunt,~~
18 ~~cousin, niece or nephew residing in the household of the City officer or employee)).~~

19
20 ~~((G. _____ "Person" means individual, association, corporation, or other legal entity.))~~

21 ~~((H. _____ "Executive Director" means the Executive Director of the Seattle Ethics and Elections~~
22 ~~Commission.))~~

23 ~~((I. _____ "Advisory committee" means a committee, board, commission or other similar City~~
24 ~~entity that does not have the authority to enact, administer, interpret, or execute City laws, but~~
25 ~~does provide advice or recommendations to a City entity that does have such authority.))~~



1 ~~((J. "Ad hoc advisory committee" means: 1) any advisory committee expressly designated by~~
2 ~~ordinance as "ad hoc"; or 2) any advisory committee created by means other than by federal or~~
3 ~~state law, City Charter, or City ordinance, including by resolution, executive order, or other~~
4 ~~similar action.))~~

5 ((K.)) "Matter" means an application, submission, request for a ruling or other determination,
6 permit, contract, claim, proceeding, case, decision, rulemaking, legislation, or other similar
7 action. Matter includes the preparation, consideration, discussion, or enactment of administrative
8 rules or legislation. Matter does not include advice or recommendations regarding broad policies
9 and goals.

11 ((L.)) "Participate" means to consider, investigate, advise, recommend, approve, disapprove,
12 decide, or take other similar action.

14 "Person" means an individual, association, corporation, or other legal entity.

15 ((M.)) "Proceeding" means a matter that involves a named party or parties in which a City
16 agency administers, interprets, or executes City laws. Proceeding does not include the
17 preparation, consideration, discussion, or enactment of administrative rules or legislation.

18 ~~((N. "Employee member of an advisory committee" means a paid City officer or employee~~
19 ~~who serves on an advisory committee by virtue of their paid position with the City.))~~

21 Section 3. Section 4.16.070, which was last amended by Ordinance 122242, is amended
22 as follows:

23 ((No)) A Covered Individual ~~((current City officer or employee shall))~~ may not:

24
25 **1. Disqualification From Acting On City Business.**
26



1 a. ~~((Engage or have engaged in any transaction or activity, which is, or would to a reasonable~~
2 ~~person appear to be, in conflict with or incompatible with the proper discharge of official~~
3 ~~duties, or which impairs, or would to a reasonable person appear to impair, the officer's or~~
4 ~~employee's independence of judgment or action in the performance of official duties and fail~~
5 ~~to disqualify him or herself from official action in those instances where the conflict occurs,~~
6 ~~except as permitted by Section 4.16.071;~~

7
8 b. ~~Have a financial or other private interest, direct or indirect, personally or through a member~~
9 ~~of his or her immediate family, in any matter upon which the officer or employee is required~~
10 ~~to act in the discharge of his or her official duties, and fail to disqualify himself or herself from~~
11 ~~acting or participating;)) Participate in a matter in which any of the following has a financial~~
12 ~~interest, except as permitted by Section 4.16.071:~~

13 _____ (i) the Covered Individual;

14 _____ (ii) an immediate family member of the Covered Individual;

15 _____ (iii) an individual residing with the Covered Individual;

16 _____ (iv) a person the Covered Individual serves as an officer, director, trustee, partner or
17 employee;

18 _____ (v) a person with which the Covered Individual is seeking or has an arrangement
19 concerning future employment.

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21
22 b. Participate in a matter in which a person that employed the Covered Individual in the
23 preceding 12 months, or retained the Covered Individual or his or her firm or partnership in
24 the preceding 12 months, has a financial interest; provided, however, that the Executive
25 Director shall waive this section when:



1 (i) the Covered Individual's appointing authority or the authority's designee makes a
2 written determination that there is a compelling City need for the Covered Individual to
3 participate in a matter involving a prior employer or client, and submits that determination
4 with a written plan showing how the authority will safeguard the City's interests, and

5 (ii) the Executive Director determines that the authority's plan is satisfactory.

6 c. ~~((Fail to disqualify himself or herself from acting on any transaction which involves the~~
7 ~~City and any person who is, or at any time within the preceding twelve (12) month period has~~
8 ~~been a private client of his or hers, or of his or her firm or partnership;~~

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

15 Perform any official duties when it could appear to a reasonable person, having knowledge
16 of the relevant circumstances, that the Covered Individual's judgment is impaired because of
17 either (1) a personal or business relationship not covered under subsection a or b above, or (2)
18 a transaction or activity engaged in by the Covered Individual. It is an affirmative defense to a
19 violation of this subsection c if the Covered Individual, prior to performing the official act,
20 discloses the relationship, transaction or activity in writing to the Executive Director and the
21 Covered Individual's appointing authority, and the appointing authority or the authority's
22 designee either approves or does not within one week of the disclosure disqualify the Covered
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1 Individual from acting. For an elected official to receive the same protection, the official must
2 file a disclosure with the Executive Director and the City Clerk. If a Covered Individual is
3 charged with a violation of this subsection, and asserts as an affirmative defense that a
4 disclosure was made, the burden of proof is on the Covered Individual to show that a proper
5 disclosure was made and that the Covered Individual was not notified that he or she was
6 disqualified from acting.

7
8 d. Sections 4.06.070.1.a and 1.b shall not apply if the prohibited financial interest is shared
9 with a substantial segment of the City's population.

10 **2. Improper Use of Official Position.**

11 a. Use or attempt to use his or her official position for a purpose that is, or would to a
12 reasonable person appear to be, primarily for the private benefit of the Covered Individual
13 ((officer or employee)) or any other person, rather than primarily for the benefit of the City(~~;~~
14 ~~or to achieve a private gain or an exemption from duty or responsibility for the officer or~~
15 ~~employee or any other person)), except as permitted by Section 4.16.071;~~

16
17 b. Use or attempt to use, or permit the use of any ~~((person, funds, or property under his or her~~
18 ~~official control, direction, or custody, or of any-))~~ City funds ~~or City, property, or~~ personnel,
19 for a purpose which is, or to a reasonable person would appear to be, for other than a City
20 purpose, except as permitted by Section 4.16.071; provided, that nothing shall prevent the
21 private use of City property which is available on equal terms to the public generally (such as
22 the use of library books or tennis courts), the use of City property in accordance with
23 municipal policy for the conduct of official City business (such as the use of a City
24 automobile), if in fact the property is used appropriately; or the use of City property for
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1 participation of the City or its officials in activities of associations ~~((of-))~~ that include other
2 governments or governmental officials;

3 c. Except in the course of official duties, assist any person in any ~~((City transaction))~~ matter
4 ~~((where such City officer or employee's assistance is, or to a reasonable person would appear~~
5 ~~to be, enhanced by that officer or employee's position with the City))~~ involving the Covered
6 Individual's department; provided, ~~((however-))~~ further, that except in the course of official
7 duties, a Covered Individual in the Mayor's office or the legislative department may not assist
8 any person in any matter. This ~~((this subsection 4.16.070 A1e))~~ subsection c shall not apply to
9 any ~~((officer or employee))~~ Covered Individual appearing on his or her own behalf ~~((or~~
10 ~~representing himself or herself as to))~~ on any matter, or on behalf of any business entity solely
11 owned by the Covered Individual~~((in which he or she has a proprietary interest))~~, if not
12 otherwise prohibited by ordinance;

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15 d. Influence or attempt to influence a City decision to contract with, or the conduct of City
16 business with, a person in which any of the following has a financial interest:

17 _____ (i) the Covered Individual;

18 _____ (ii) an immediate family member of the Covered Individual;

19 _____ (iii) an individual residing with the Covered Individual;

20 _____ (iv) a person the Covered Individual serves as an officer, director, trustee, partner or
21 employee;

22 _____ (v) a person with which the Covered Individual is seeking or has an arrangement
23 concerning future employment.
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1 However, it is not a violation of this section for a City contractor to attempt to obtain other
2 contracts with the City.

3 ~~((Regardless of prior disclosure thereof, have a financial interest, direct or indirect, personally~~
4 ~~or through a member of his or her immediate family, in a business entity doing or seeking to~~
5 ~~do business with the City, and influence or attempt to influence the selection of, or the conduct~~
6 ~~of business with, such business entity by the City.))~~

7
8 **3. Acceptance of ((Gifts or Loans)) Things of Value.**

9 a. Solicit or receive any retainer, gift, loan, entertainment, favor, or other thing of monetary
10 value from any person or entity where the retainer, gift, loan, entertainment, favor, or other
11 thing of monetary value has been solicited, or received or given or, to a reasonable person,
12 would appear to have been solicited, received or given with intent to give or obtain special
13 consideration or influence as to any action by ~~((such officer or employee))~~ the Covered
14 Individual in his or her official capacity; provided, that nothing shall prohibit campaign
15 contributions which are solicited or received and reported in accordance with applicable law.

16
17 **4. ~~((Disclosing privileged))~~ Disclosure of confidential information.**

18 a. Disclose or use any ~~((privileged or proprietary))~~ confidential information gained by reason
19 of his or her official position for ~~((a purpose which is for))~~ other than a City purpose~~((;~~
20 provided, that nothing shall prohibit the disclosure or use of information which is a matter of
21 public knowledge, or which is available to the public on request)).

22
23 **5. ~~((Financial or Beneficial))~~ Interest in City ((Transaction)) Contracts.**

24 a. ~~((Regardless of prior disclosure thereof hold))~~ Hold or acquire a financial or beneficial
25 interest, direct or indirect, personally or through a member of his or her immediate family, in
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1 any contract which, in whole or in part, is(~~(, or which may be,)~~) made by, through, or under
2 the supervision of (~~(such officer or employee or which may be made for the benefit of his or~~
3 ~~her office~~ the Covered Individual, or which is made by or through a person supervised,
4 directly or indirectly, by the Covered Individual, except as permitted by Section 4.16.071; or
5 accept, directly or indirectly, any compensation, gratuity, or reward in connection with such
6 contract from any other person or entity beneficially interested therein(~~(, in violation of~~
7 ~~Chapter 42.23 RCW.;~~) This subsection shall not apply to the furnishing of electrical, water,
8 other utility services or other services by the City at the same rates and on the same terms as
9 are available to the public generally.

11 b. (~~(Regardless of prior disclosure thereof, be beneficially interested, directly or~~
12 ~~indirectly, in any contract or transaction which may be made by, through or under the~~
13 ~~supervision of such officer, in whole or in part, or which may be made for the benefit of his or~~
14 ~~her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection~~
15 ~~with such contract or transaction from any other person beneficially interested therein, except~~
16 ~~as permitted by Section 4.16.071. This subsection shall not apply to the furnishing of~~
17 ~~electrical, water, other utility services or other services by the City at the same rates and on the~~
18 ~~same terms as are available to the public generally.))~~

21 Unless prohibited by subsection a, have a financial interest, direct or indirect,
22 personally or through a member of his or her immediate family, in any contract to which the
23 City or any City agency may be a party, and fail to disclose such interest to the City
24 contracting authority prior to the formation of the contract or the time the City or City agency



1 enters into the contract; provided, that this subsection b shall not apply to any contract
2 awarded through the public bid process in accordance with applicable law.

3 Section 4. Section 4.16.075, which was last amended by Ordinance 116377, is amended
4 as follows:

5 A. ~~((No))~~ A former ~~((officer or employee shall))~~ Covered Individual may not disclose or use any
6 ~~((privileged or proprietary))~~ confidential information gained by reason of his~~((/))~~ or her City
7 work~~((employment unless the information is a matter of public knowledge or is available to~~
8 ~~the public on request))~~);

10 B. ~~((No))~~ A former City officer or City employee ~~((shall))~~ may not, during the period of ~~((one~~
11 ~~((1)))~~ two years after leaving City Office or employment~~((:~~
12 ~~((1. A)),~~ assist any person in proceedings involving the agency of the City with which he/she
13 was previously employed, or) on a matter in which he or she ~~((was officially involved,))~~
14 participated~~((or acted in the course of duty;~~
15 2. Represent any person as an advocate in any matter in which the former officer or employee
16 was officially involved while a City officer or employee))

18 C. A former City officer or City employee may not, during the period of one year after leaving
19 City office or employment communicate, on behalf of any person on a matter involving the
20 City, with an employee of the agency of the City with which he or she was previously
21 employed;

23 ~~((3-))~~ D. A former Covered Individual may not, during the period of one year after leaving City
24 office or employment, ((P))participate as a competitor in any competitive selection process for
25



1 a City contract in which he or she assisted the City in determining the project or work to be
2 done or the process to be used in selecting a contractor.

3 ~~((C))~~E. A ~~((City officer))~~ Covered Individual, who contracts with a former City officer or
4 employee for expert or consultant services within one ~~((1))~~ year of the latter's leaving City
5 work~~((office or employment))~~, shall promptly inform the ~~((Administrator))~~ Executive Director
6 about the agreement.

7
8 ~~((D))~~E. The prohibitions of Sections 4.16.075.B~~((1))~~ and 4.16.075~~((B2))~~.C, shall not apply to
9 former City officers or City employees ~~((acting on behalf))~~ acting as employees or agents of a
10 governmental agency unless such assistance or representation~~((that governmental agency's~~
11 interest in the matter is adverse to the interest of the City.

12 Section 5. Section 4.16.090, which was last amended by Ordinance 118735, is amended
13 as follows:

14 * * *

15
16 C. Within ~~((thirty (30)))~~ 30 days after receipt of a complaint, the Executive Director shall
17 ~~((conduct a preliminary investigation to))~~ review the complaint to determine whether a complaint,
18 on its face, alleges facts that, if true, would constitute a violation of Chapter 4.16. At the request
19 of the Executive Director, the Commission may, for good cause shown, extend the time for
20 completion of the ~~((preliminary investigation))~~ review. If the Commission determines that the
21 ~~((preliminary investigation))~~ review must be completed in less than thirty ~~((thirty (30)))~~ 30 days
22 in order to avoid prejudice or irreparable harm to the person alleged to have violated this chapter,
23 the Commission shall order the Executive Director to complete the ~~((preliminary~~
24 investigation)) review in a shorter period of time, and the Executive Director shall comply.
25
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1 D. If the Executive Director determines, after investigation, that there are no reasonable
2 grounds to believe that a violation has occurred, or determines that the violation was inadvertent
3 and minor, the Executive Director shall dismiss the complaint. If the Executive Director does so
4 dismiss the complaint, he or she shall do so in writing, setting forth the facts and the provisions
5 of law upon which the dismissal is based, and shall provide a copy of the written dismissal to the
6 complainant, to the person named in the complaint as the alleged violator and to the
7 Commission. A complainant may appeal a dismissal under this subsection to the Commission
8 under rules promulgated by the Commission.
9

10 E. The Executive Director may, after investigation, seek an administrative dismissal of the
11 complaint from the Commission when he or she determines that there are reasonable grounds to
12 believe that:

13 1. A violation occurred, but it was inadvertent or minor, but not both; or

14 2. A violation occurred, but appropriate actions have been taken to address the allegedly
15 unlawful conduct.
16

17 F. If, after investigation, the Executive Director has reason to believe that a material
18 violation of Chapter 4.16 has occurred, the Executive Director shall initiate an enforcement
19 proceeding by issuing to the alleged violator a charging document which includes the provisions
20 of Chapter 4.16 allegedly violated and the conduct that constitutes the violation(s), and shall
21 issue a copy of the charging document to the Commission(~~and schedule a hearing before the~~
22 ~~Commission)).~~
23

24 The Director shall schedule a hearing to commence within 60 days of the charging document.

25 The Commission Chair may, at any time, continue the hearing to another date. No hearing shall
26



1 be scheduled, however, while an Executive Director's recommendation for a settlement is
2 awaiting action by the Commission.

3 ~~((F))G. ((The Commission shall commence a hearing within thirty (30) days from the date that~~
4 ~~the Executive Director schedules the hearing.))~~ The Commission shall issue a written
5 determination stating whether the chapter has been violated and setting forth the facts and the
6 provisions of law upon which this determination is based. A copy of said determination shall be
7 delivered to the complainant, if any, to the person charged with the violation and, where
8 appropriate, to the person's superior.
9

10 ~~((G))H.~~ All hearings hereunder shall be conducted as "contested case" hearings under the
11 Administrative Code, Seattle Municipal Code Chapter 3.02 (Ordinance 102228) and the
12 Commission's rules and regulations. All hearings under this section shall be open to the public
13 unless closed upon the request of the City employee who is the subject of the charges being
14 heard, except that all hearings on charges against (1) City officials elected by the public, (2) the
15 Deputy Mayor, if any, (3) heads of departments and Executive Department offices, (4) members
16 of boards and commissions, and (5) those City employees who are represented by a labor union
17 that, on the date the charges were filed, had not reached written agreement with the City
18 concerning closing hearings on request, shall be open to the public. Regardless of whether the
19 hearing was closed, if the Commission determines this chapter was violated, the charges, all
20 recordings or transcripts of hearings that were made by the Commission, and the Commission's
21 written findings of fact and conclusions of law shall be made public.
22

23
24 ~~((H))I.~~ If the Commission determines that a City officer or City employee has violated the
25 provisions of this chapter, the Commission may recommend that the officer or employee be
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1 subject to disciplinary action. In addition to any other penalty herein or otherwise provided by
2 law, a violation shall be cause for suspension, discharge, or removal from office, or such other
3 disciplinary action as may, by the appropriate City authority, be deemed necessary and proper,
4 and consistent with personnel ordinances and rules. A written report of the disciplinary action
5 taken as a result of the Commission recommendation shall be made by the appropriate City
6 authority to the Commission within (~~fourteen (14))~~ 14 calendar days after receipt of the
7 Commission's recommendation; provided, that this section shall not derogate from employee
8 rights under any collective bargaining agreement or City personnel ordinance, or rules
9 promulgated thereunto. If the appropriate City authority determines that the written report of
10 disciplinary action taken as a result of the Commission recommendation required in the section
11 cannot be made to the Commission within (~~fourteen (14))~~ 14 calendar days after receipt of the
12 Commission's recommendation, because of procedures prescribed under any collective
13 bargaining agreement, personnel ordinance, or rule promulgated thereunto, the appropriate City
14 authority shall so report to the Commission within (~~fourteen (14))~~ 14 calendar days after receipt
15 of the Commission's recommendation, stating the date on which the written report of disciplinary
16 action taken will be submitted to the Commission. If the violation involves prohibited conduct of
17 a former officer or employee, the Commission may recommend to the administering City
18 authority that no contract be made or that the contract be terminated and that proceedings be
19 begun anew in order to prevent injury to the City or to avoid an unfair advantage accruing to a
20 competitor by reason of the violation. Upon receipt of the written report of the disciplinary action
21 taken, or in the event no report is received, the Commission shall review such matter and make
22 such further recommendation as may be appropriate.
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1 Section 6. The repeal or amendment of various sections of chapter 4.16 of the Seattle
2 Municipal Code by this ordinance shall not relieve any person of the obligation to have complied
3 with the provisions of such chapter as in effect prior to such repeal or amendment, and any
4 offense committed, conduct engaged in or penalty or forfeiture incurred while the prior section
5 was in force shall be punished or enforced as if the prior section were in force, notwithstanding
6 such amendment or repeal, unless a contrary intention is expressly declared in the amendatory or
7 repealing ordinance, and every such amendatory or repealing ordinance shall be so construed as
8 to save all proceedings under the amended or repealed ordinance pending at the time of the this
9 ordinance, unless a contrary intention is expressly declared herein.
10

11 Section 7. The Ethics and Elections Commission and the City Council intends to monitor
12 the impacts of defining "City contractor" in Section 2 and applying provisions of the City's
13 Ethics Code to City contractors in Sections 3 and 4 of this ordinance. The Ethics and Elections
14 Commission is requested to:
15

- 16 a) Recognize all provisions related to City contractors in this ordinance as part of a two
17 year pilot program subject to further evaluation;
18
19 b) Provide the City Council with recommendations on whether to continue, modify or
20 eliminate City contractor provisions in June, 2011;
21
22 c) Submit an annual report to the City Council on complaints, investigations, advisory
23 opinions, findings and rulings on matters related to City contractors; and
24
25 d) Work with the Department of Executive Administration to develop and implement a
26 plan for educating City departments and City contractors about the new provisions related
27 to City contractors adopted in this ordinance.
28



1 Section 8. Section 4.16.030, which was last amended by section 2 of this Ordinance, is
2 amended as follows 90 days after the effective date of this ordinance:

3 * * *

4 "Covered Individual" means any City officer, City employee, City contractor or City
5 volunteer. Covered Individual also includes every individual who was a City officer, City
6 employee, City contractor or City volunteer at the time of the act or omission that is alleged to
7 have violated this chapter, even if he or she no longer has that status.
8

9 * * *

10 Section 9. This ordinance shall take effect and be in force 30 days from and after its
11 approval by the Mayor, but if not approved and returned by the Mayor within ten days after
12 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.
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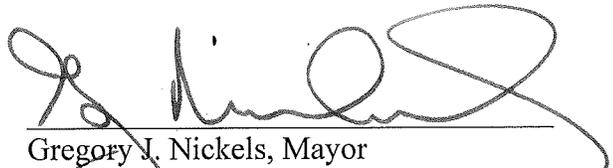
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Passed by the City Council the 15th day of June, 2009, and
signed by me in open session in authentication of its passage this
15th day of June, 2009.



President _____ of the City Council

Approved by me this 23rd day of June, 2009.



Gregory J. Nickels, Mayor

Filed by me this 24th day of June, 2009.



Acting City Clerk

(Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Legislative	Mike Fong/5-1675	N/A

Legislation Title: AN ORDINANCE related to the Seattle Ethics code, amending sections 4.16.020 to state the purpose of the Ethics Code in positive terms; 4.16.030 to add new definitions and bring some City contractors under the Commission’s jurisdiction; 4.16.070 to expand the list of prohibited financial interests, require disclosure of appearances of conflicts of interest, create a mechanism for waiving the bar on dealing with former employers and clients, and to make several other changes intended to clarify the Ethics Code’s prohibitions; 4.16.075 to extend from one year to two the bar on assisting others in matters in which an individual subject to the Ethics Code participated while a City employee, and to limit communications on behalf of others between former employees and their employing agencies; and 4.16.090 to create a mechanism in the Ethics Code for the Commission to administratively dismiss complaints, and to clarify how hearings are scheduled.

- **Summary of the Legislation:** This legislation would implement the Seattle Ethics and Elections Commission’s (SEEC) recommendations for proposed changes to Seattle’s Ethics Code.
- **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

The following summary of key provisions of the legislation is as provided by SEEC Executive Director Wayne Barnett:

Expand the list of financial interests that require a person to disqualify themselves.

Under current law, only a City officer or employee’s *personal* financial interest in a matter requires their recusal. Under the Commission’s proposal, a person subject to the Code will need to recuse themselves whenever *any* of the following have a financial interest:

- a spouse or domestic partner, child, child of a spouse or domestic partner, sibling, sibling of a domestic partner, brother-in-law, sister-in-law, parent, parent of a spouse or domestic partner, a person for whom the individual is a legal guardian, or a person claimed as a dependent on the individual’s most recently filed federal income tax return;
- someone residing with the individual;
- a person that the individual serves as an officer, director, trustee, partner or employee;
- a person with which the individual is seeking or has an arrangement concerning future employment.



Require that appearances of conflicts be disclosed. Under current law, City officers and employees must recuse themselves when their private activities create an appearance of conflict. With the significant expansion of the list of financial interests requiring recusal, the Commission proposes requiring that appearances of conflict be publicly disclosed. Disclosure is the appropriate remedy when reasonable minds can disagree, and provides an incentive for public engagement in government.

Extend the Commission’s jurisdiction to reach certain City contractors. Under current law, City contractors are beyond the Commission’s jurisdiction. Under the Commission’s proposal, the Commission would have jurisdiction over individuals who served as contractors for more than 1,000 hours in any twelve-month period.

Extend the bar on former City employees assisting others with matters in which they participated. Many other jurisdictions, including Washington state, have a lifetime bar on former employees helping others with the same matters on which they worked while with the government. Under the Commission’s proposal, the City’s bar would be extended from one year to two years.

Limit the bar on former City employees dealing with their former department to cover only communications with the department. Under current law, a former employee cannot assist someone in a proceeding involving their former department. This provision is a hardship, as well as a surprise to many who leave City service. For example, an architect with DPD cannot work on a project requiring a DPD permit for a year after leaving the City. Under the Commission’s proposal, the architect would be able to assist a homeowner with a project, but could not communicate with DPD on the homeowner’s behalf.

Provide a mechanism to waive the bar on individuals dealing with their former employer. Under current law, a City employee may not have official dealings with his or her former employer for a year after joining the City. Sometimes, however, barring an employee from dealing with his or her former employer for a year may do more harm than good to the City’s interests. The Commission’s proposal creates a mechanism for the Executive Director to waive this restriction when the person’s appointing authority determines that there is a compelling need for the person’s services, and the department provides a plan for safeguarding the City’s interests.

- *Please check one of the following:*

X **This legislation does not have any financial implications.** *(Stop here and delete the remainder of this document prior to saving and printing.)*





City of Seattle

Ethics and Elections Commission

April 14, 2009

BY E-MAIL and HAND

Councilmember Sally J. Clark
Chair, Planning, Land Use and Neighborhoods Committee
City Hall
Seattle, WA 98104

Dear Councilmember Clark:

I am pleased to send to you the draft ordinance amending the Ethics Code that we discussed last month. As you know, this draft represents months of careful work by the Commission and the staff, and draws on the Commission's twenty years of experience administering the Ethics Code. I have also attached a brief summary of the major changes that the Commission has proposed to the law.

I know that the Planning, Land Use and Neighborhoods Committee's agendas are always crowded, but I hope you can find a way to fit this important bill into the committee's work plan. I think your plan to start the City Council's review with an informal brown bag is an excellent idea.

I look forward to working with you in the months ahead to see that these very sensible changes to the Ethics Code become law.

Very truly yours,

Wayne Barnett
Executive Director

cc: Councilmember Tim Burgess, Vice-Chair, PLUNC
Councilmember Tom Rasmussen, Member, PLUNC
City Council President Richard Conlin
Regina LaBelle, Counsel to the Mayor
Seattle Ethics and Elections Commission



STATE OF WASHINGTON – KING COUNTY

--ss.

240880
CITY OF SEATTLE, CLERKS OFFICE

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.

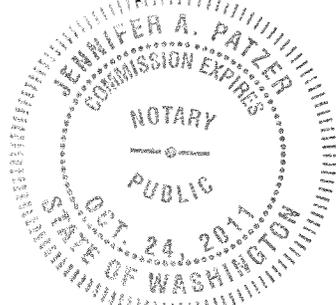
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORD 123010 ETHICS CODE

was published on

06/29/09

The amount of the fee charged for the foregoing publication is the sum of \$1,061.25, which amount has been paid in full.



06/29/09

Subscribed and sworn to before me on

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

City of Seattle

ORDINANCE 123010

AN ORDINANCE related to the Seattle Ethics code, amending sections 4.16.020 to state the purpose of the Ethics Code in positive terms; 4.16.030 to add new definitions and bring some City contractors under the Commission's jurisdiction; 4.16.070 to expand the list of prohibited financial interests, require disclosure of appearances of conflicts of interest, create a mechanism for waiving the bar on dealing with former employers and clients, and to make several other changes intended to clarify the Ethics Code's prohibitions; 4.16.075 to extend from one year to two the bar on assisting others in matters in which an individual subject to the Ethics Code participated while a City employee, and to limit communications on behalf of others between former employees and their employing agencies; and 4.16.090 to create a mechanism in the Ethics Code for the Commission to administratively dismiss complaints, and to clarify how hearings are scheduled.

WHEREAS, the Ethics and Elections Commission has completed a full scale review of the Ethics Code, the first full scale review the Code has undergone in the past twenty years; and

WHEREAS, over the past twenty years, several other cities have adopted Ethics Codes, allowing the Commission to draw on best practices from around the nation; and

WHEREAS, the Ethics and Elections Commission determined that certain amendments to the Ethics Code can make the Code easier to understand for the public and the City employees to whom the Code applies; and

WHEREAS, the official duties of an elected official and his or her staff members include providing constituent services on an impartial basis to people who seek assistance from their elected representatives in dealing with City departments; and

WHEREAS, the Ethics and Elections Commission determined that taking advantage of new technologies to enhance transparency can create a better informed citizenry, and serve as an important element of an effective Ethics Code; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 4.16.020, which was last amended by Ordinance 115548, is amended as follows:

A. The City finds that the proper operation of democratic representative government requires that public officers and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. Accordingly, it is the purpose of this chapter to establish ethical standards of conduct for all officers and employees of the City, whether elected or appointed, paid or unpaid; to set forth those acts that are incompatible with such standards; to require disclosure by such officers and employees of private financial or other interests in matters affecting the City; and to provide effective means for enforcement thereof. This chapter is not to be construed so as to impair the ability of City officers and employees to participate in ceremonial, representational, or informational functions in the pursuit of their official duties.

B. City officers and employees will demonstrate the values of integrity in the performance of the City's business, accountability to the law and to the people we serve, stewardship of the City's resources, and independence in the performance of our jobs. City employees should recognize that public service is a sacred trust, and should strive to live up to the highest ethical standards.

C. This chapter shall be liberally construed in favor of protecting the public's interest in full disclosure of conflicts of interest and promoting ethical standards of conduct for City officers and employees.

((E))D. 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. Section 4.16.030, which was last amended by Ordinance 122242, is amended as follows:

As used in this chapter, the following terms shall have the meanings indicated.

((A-)) "Ad hoc advisory committee" means: 1) any advisory committee expressly designated by ordinance as "ad hoc"; or 2) any advisory committee created by means other than by federal or state law, City Charter, or City ordinance, including by resolution, executive order, or other similar action.

State of Washington, King County

"Administrator" means the Executive Director of the Seattle Ethics and Elections Commission.

"Advisory committee" means a committee, board, commission or other similar City entity that does not have the authority to enact, administer, interpret, or execute City laws, but does provide advice or recommendations to a City entity that does have such authority.

"Appointing authority" means a person authorized by ordinance or Charter to employ others on behalf of the City, usually the head of a department. With reference to a City contractor it is the person who is authorized to award the contract.

((B-)) "Assist" ((shall have the meaning set forth at RCW 42-18-056-1)) means to act, or offer or agree to act, in such a way as to help, aid, advise, furnish information to, or otherwise provide assistance to another person, believing that the action is of help, aid, advice, or assistance to the person and with intent so to assist such person.

((E-)) "Board of Ethics" or "Board" or "Commission" means the Seattle Ethics and Elections Commission established by Section 3.70.010.

((E-)) "City agency" means every department, office, board, commission, or committee of the City, or any subdivision thereof, but excludes public corporations and ad hoc advisory committees.

"City contractor" means an individual who spends more than 1,000 hours in any twelve-month period providing services to a City agency under a contract, other than a contract of employment.

"City employee" means every individual appointed to a position of employment in any City agency.

((E-)) "City officer ((or employee))" means every individual elected or appointed to an office ((or position of employment)) in any City agency, whether such individual is paid or unpaid. ((For purposes of Sections 4.16.090 G and 4.16.100 B only, "City employee" also includes every individual who was a City employee at the time of the act or omission that is alleged to have violated this chapter, even though he or she is not a City employee at the time of the hearing or appeal provided under those subsections.))

"Communicate," for the purposes of SMC 4.16.075, means to communicate in any form, including, without limitation, personally, through another person, by letter, by electronic mail, or by telephone.

"Confidential information" means (i) specific information, rather than generalized knowledge, that is not available to a person who files a public records request, and (ii) information made confidential by law.

"Covered Individual" means any City officer, City employee, or City volunteer. Covered Individual also includes every individual who was a City officer, City employee, or City volunteer at the time of the act or omission that is alleged to have violated this chapter, even if he or she no longer has that status.

"City volunteer" means someone who volunteers services to the City.

"Employee member of an advisory committee" means a paid City officer or employee who serves on an advisory committee by virtue of their paid position with the City.

"Executive Director" means the Executive Director of the Seattle Ethics and Elections Commission.

((F-)) "Immediate family" means a spouse or domestic partner, child, child of a spouse or domestic partner, sibling, sibling of a domestic partner, brother-in-law, sister-in-law, parent, parent of a spouse or domestic partner, a person for whom the Covered Individual is a legal guardian, or a person claimed as a dependent on the Covered Individual's most recently filed federal income tax return <u>>>((

1. A spouse or domestic partner as contemplated by Sections 4.30.010 -- 4.30.020;

2. Any dependent parent, parent-in-law, child or son-in-law or daughter-in-law; or

3. Any parent, parent-in-law, child, son-in-law, daughter-in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of the City officer or employee).

((G-)) "Person" means individual, association, corporation, or other legal entity.)

((H-)) "Executive Director" means the Executive Director of the Seattle Ethics and Elections Commission.)

((I-)) "Advisory committee" means a committee, board, commission or other similar City entity that does not have the authority to enact, administer, interpret, or execute City laws, but does provide advice or recommendations to a City entity that does have such authority.)

((J-)) "Ad hoc advisory committee" means: 1) any advisory committee expressly designated by ordinance as "ad hoc"; or 2) any advisory committee created by means other than by federal or state law, City Charter, or City ordinance, including by resolution, executive order, or other similar action.)

((K-)) "Matter" means an application, submission, request for a ruling or other determination, permit, contract, claim, proceeding, case, decision, rulemaking, legislation, or other similar action. Matter includes the preparation, consideration, discussion, or enactment of administrative rules or legislation. Matter does not include advice or recommendations regarding broad policies and goals.

((L-)) "Participate" means to consider, investigate, advise, recommend, approve, disapprove, decide, or take other similar action.

"Person" means an individual, association, corporation, or other legal entity.

((M-)) "Proceeding" means a matter that involves a named party or parties in which a City agency administers, interprets, or executes City laws. Proceeding does not include the preparation, consideration, discussion, or enactment of administrative rules or legislation.

((N-)) "Employee member of an advisory committee" means a paid City officer or employee who serves on an advisory committee by virtue of their paid position with the City.)

Section 3. Section 4.16.070, which was last amended by Ordinance 122242, is amended as follows:

((No)) A Covered Individual ((current City officer or employee shall)) may not:

1. Disqualification From Acting On City Business.

a. ((Engage or have engaged 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, except as permitted by Section 4.16.071;

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;)) Participate in a matter in which any of the following has a financial interest, except as permitted by Section 4.16.071:

- (i) the Covered Individual;
- (ii) an immediate family member of the Covered Individual;
- (iii) an individual residing with the Covered Individual;
- (iv) a person the Covered Individual serves as an officer, director, trustee, partner or employee;
- (v) a person with which the Covered Individual is seeking or has an arrangement concerning future employment.

b. Participate in a matter in which a person that employed the Covered Individual in the preceding 12 months, or retained the Covered Individual or his or her firm or partnership in the preceding 12 months, has a financial interest; provided, however, that the Executive Director shall waive this section when:

(i) the Covered Individual's appointing authority or the authority's designee makes a written determination that there is a compelling City need for the Covered Individual to participate in a matter involving a prior employer or client, and submits that determination with a written plan showing how the authority will safeguard the City's interests, and

(ii) the Executive Director determines that the authority's plan is satisfactory.

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 (12) 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 fail 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))

Perform any official duties when it could appear to a reasonable person, having knowledge of the relevant circumstances, that the Covered Individual's judgment is impaired because of either (1) a personal or business relationship not covered under subsection a or b above, or (2) a transaction or activity engaged in by the Covered Individual. It is an affirmative defense to a violation of this subsection c if the Covered Individual, prior to performing the official act, discloses the relationship, transaction or activity in writing to the Executive Director and the Covered Individual's appointing authority, and the appointing authority or the authority's designee either approves or does not within one week of the disclosure disqualify the Covered Individual from acting. For an elected official to receive the same protection, the official must file a disclosure with the Executive Director and the City Clerk. If a Covered Individual is charged with a violation of this subsection, and asserts as an affirmative defense that a disclosure was made, the burden of proof is on the Covered Individual to show that a proper disclosure was made and that the Covered Individual was not notified that he or she was disqualified from acting.

d. Sections 4.06.070.1 a and 1 b shall not apply if the prohibited financial interest is shared with a substantial segment of the City's population.

2. Improper Use of Official Position.

a. Use or attempt to use his or her official position for a purpose that is, or would be a reasonable person appear to be, primarily for the private benefit of the Covered Individual (officer or employee) or any other person, rather than primarily for the benefit of the City (or to achieve a private gain or an exemption from duty or responsibility for the officer or employee or any other person), except as permitted by Section 4.16.071;

b. Use or attempt to use, or permit the use of any (person, funds, or property under his or her official control, direction, or custody, or of any) City funds or City property, or personnel, for a purpose which is, or to a reasonable person would appear to be, for other than a City purpose, except as permitted by Section 4.16.071; provided, that nothing shall prevent the private use of City property which is available on equal terms to the public generally (such as the use of library books or tennis courts), the use of City property in accordance with municipal policy for the conduct of official City business (such as the use of a City automobile), if in fact the property is used appropriately; or the use of City property for participation of the City or its officials in activities of associations (of that include other governments or governmental officials);

c. Except in the course of official duties, assist any person in any (City transaction) matter (where such City officer or employee's assistance is, or to a reasonable person would appear to be, enhanced by that officer or employee's position with the City) involving the Covered Individual's department; provided, (however) further, that except in the course of official duties, a Covered Individual in the Mayor's office or the legislative department may not assist any person in any matter. This (this subsection 4.16.070 A)c) subsection c shall not apply to any (officer or employee) Covered Individual appearing on his or her own behalf (or representing himself or herself as to) on any matter, or on behalf of any business entity solely owned by the Covered Individual (in which he or she has a proprietary interest), if not otherwise prohibited by ordinance;

d. Influence or attempt to influence a City decision to contract with, or the conduct of City business with, a person in which any of the following has a financial interest:

(i) the Covered Individual;

(ii) an immediate family member of the Covered Individual;

(iii) an individual residing with the Covered Individual;

(iv) a person the Covered Individual serves as an officer, director, trustee, partner or employee;

(v) a person with which the Covered Individual is seeking or has an arrangement concerning future employment.

However, it is not a violation of this section for a City contractor to attempt to obtain other contracts with the City.

(Regardless of prior disclosure thereof, have a financial interest, direct or indirect, personally or through a member of his or her immediate family, in a business entity doing or seeking to do business with the City; and influence or attempt to influence the selection of, or the conduct of business with, such business entity by the City.)

3. Acceptance of ((Gifts or Loans)) Things of Value.

a. Solicit or receive any retainer, gift, loan, entertainment, favor, or other thing of monetary value from any person or entity where the retainer, gift, loan, entertainment, favor, or other thing of monetary value has been solicited, or received or given, or to a reasonable person, would appear to have been solicited, received or given with intent to give or obtain special consideration or influence as to any action by (such officer or employee) the Covered Individual in his or her official capacity; provided, that nothing shall prohibit campaign contributions which are solicited or received and reported in accordance with applicable law.

4. (Disclosing privileged) Disclosure of Confidential Information.

a. Disclose or use any (privileged or proprietary) confidential information gained by reason of his or her official position for (a purpose which is for) other than a City purpose (provided, that nothing shall prohibit the disclosure or use of information which is a matter of public knowledge, or which is available to the public on request).

5. ((Financial or Beneficial)) Interest in City ((Transaction)) Contracts.

a. (Regardless of prior disclosure thereof hold) Hold or acquire a financial or beneficial interest, direct or indirect, personally or through a member of his or her immediate family, in any contract which, in whole or in part, is (, or which may be) made by, through, or under the supervision of (such officer or employee or which may be made for the benefit of his or her office the Covered Individual, or which is made by or through a person supervised, directly or indirectly, by the Covered Individual, except as permitted by Section 4.16.071; or accept, directly or indirectly, any compensation, gratuity, or reward in connection with such contract from any other person or entity beneficially interested therein (, in violation of Chapter 42.49 RGW.) This subsection shall not apply to the furnishing of electrical, water, other utility services or other services by the City at the same rates and on the same terms as are available to the public generally.

b. (Regardless of prior disclosure thereof, be beneficially interested, directly or indirectly, in any contract or transaction which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract or transaction from any other person beneficially interested therein, except as permitted by Section 4.16.071. This subsection shall not apply to the furnishing of electrical, water, other utility services or other services by the City at the same rates and on the same terms as are available to the public generally.)

Unless prohibited by subsection a, have a financial interest, direct or indirect, personally or through a member of his or her immediate family, in any contract to which the City or any City agency may be a party, and fail to disclose such interest to the City contracting authority prior to the formation of the contract or the time the City or City agency enters into the contract; provided, that this subsection b shall not apply to any contract awarded through the public bid process in accordance with applicable law.

Section 4. Section 4.16.075, which was last amended by Ordinance 116377, is amended as follows:

A. ((No)) A former (officer or employee shall) Covered Individual may not disclose or use any (privileged or proprietary) confidential information gained by reason of his (or) her City work (employment unless the information is a matter of public knowledge or is available to the public on request);

B. ((No)) A former City officer or City employee (shall) may not, during the period of (one (1)) two years after leaving City Office or employment (:

((1-A)), assist any person in proceedings involving the 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;

2. Represent any person as an advocate in any matter in which the former officer or employee was officially involved while a City officer or employee)

C. A former City officer or City employee may not, during the period of one year after leaving City office or employment communicate, on behalf of any person on a matter involving the City, with an employee of the agency of the City with which he or she was previously employed.

((B-D)) A former Covered Individual may not, during the period of one year after leaving City office or employment, ((B)) participate as a competitor in any competitive selection process for a City contract in which he or she assisted the City in determining the project or work to be done or the process to be used in selecting a contractor.

((G)) E. A ((City officer)) Covered Individual, who contracts with a former City officer or employee for expert or consultant services within one ((1)) year of the latter's leaving City work (office or employment), shall promptly inform the (Administrator) Executive Director about the agreement.

((B)) E. The prohibitions of Sections 4.16.075, B(3) and 4.16.075((B2)), C, shall not apply to former City officers or City employees (acting on behalf) acting as employees or agents of a governmental agency unless such assistance or representation) that governmental agency's interest in the matter is adverse to the interest of the City.

Section 5. Section 4.16.090, which was last amended by Ordinance 118735, is amended as follows:

C. Within ((thirty (30))) 30 days after receipt of a complaint, the Executive Director shall ((conduct a preliminary investigation to)) review the complaint to determine whether a complaint, on its face, alleges facts that, if true, would constitute a violation of Chapter 4.16. At the request of the Executive Director, the Commission may, for good cause shown, extend the time for completion of the ((preliminary investigation)) review. If the Commission determines that the ((preliminary investigation)) review must be completed in less than thirty ((thirty (30))) 30 days in order to avoid prejudice or irreparable harm to the person alleged to have violated this chapter, the Commission shall order the Executive Director to complete the ((preliminary investigation)) review in a shorter period of time, and the Executive Director shall comply.

D. If the Executive Director determines, after investigation, that there are no reasonable grounds to believe that a violation has occurred, or determines that the violation was inadvertent and minor, the Executive Director shall dismiss the complaint. If the Executive Director does so dismiss the complaint, he or she shall do so in writing, setting forth the facts and the provisions of law upon which the dismissal is based, and shall provide a copy of the written dismissal to the complainant, to the person named in the complaint as the alleged violator and to the Commission. A complainant may appeal a dismissal under this subsection to the Commission under rules promulgated by the Commission.

E. The Executive Director may, after investigation, seek an administrative dismissal of the complaint from the Commission when he or she determines that there are reasonable grounds to believe that:

1. A violation occurred, but it was inadvertent or minor, but not both; or

2. A violation occurred, but appropriate actions have been taken to address the allegedly unlawful conduct.

F. If, after investigation, the Executive Director has reason to believe that a material violation of Chapter 4.16 has occurred, the Executive Director shall initiate an enforcement proceeding by issuing to the alleged violator a charging document which includes the provisions of Chapter 4.16 allegedly violated and the conduct that constitutes the violation(s), and shall issue a copy of the charging document to the Commission (and schedule a hearing before the Commission).

The Director shall schedule a hearing to commence within 60 days of the charging document. The Commission Chair may, at any time, continue the hearing to another date. No hearing shall be scheduled, however, while an Executive Director's recommendation for a settlement is awaiting action by the Commission.

((F)) G. ((The Commission shall commence a hearing within thirty (30) days from the date that the Executive Director schedules the hearing.)) The Commission shall issue a written determination stating whether the chapter has been violated and setting forth the facts and the provisions of law upon which this determination is based. A copy of said determination shall be delivered to the complainant, if any, to the person charged with the violation and, where appropriate, to the person's superior.

((G)) H. All hearings hereunder shall be conducted as "contested case" hearings under

the Administrative Code, Seattle Municipal Code Chapter 3.02 (Ordinance 102228) and the Commission's rules and regulations. All hearings under this section shall be open to the public unless closed upon the request of the City employee who is the subject of the charges being heard, except that all hearings on charges against (1) City officials elected by the public, (2) the Deputy Mayor, if any, (3) heads of departments and Executive Department offices, (4) members of boards and commissions, and (5) those City employees who are represented by a labor union that, on the date the charges were filed, had not reached written agreement with the City concerning closing hearings on request, shall be open to the public. Regardless of whether the hearing was closed, if the Commission determines this chapter was violated, the charges, all recordings or transcripts of hearings that were made by the Commission, and the Commission's written findings of fact and conclusions of law shall be made public.

((H)) I. If the Commission determines that a City officer or City employee has violated the provisions of this chapter, the Commission 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 disciplinary action as may, by the appropriate City authority, be deemed necessary and proper, and consistent with personnel ordinances and rules. A written report of the disciplinary action taken as a result of the Commission recommendation shall be made by the appropriate City authority to the Commission within ((fourteen (14))) 14 calendar days after receipt of the Commission's recommendation; provided, that this section shall not derogate from

employee rights under any collective bargaining agreement or City personnel ordinance, or rules promulgated thereunto. If the appropriate City authority determines that the written report of disciplinary action taken as a result of the Commission recommendation required in the section cannot be made to the Commission within ((fourteen (14))) 14 calendar days after receipt of the Commission's recommendation, because of procedures prescribed under any collective bargaining agreement, personnel ordinance, or rule promulgated thereunto, the appropriate City authority shall so report to the Commission within ((fourteen (14))) 14 calendar days after receipt of the Commission's recommendation, stating the date on which the written report of disciplinary action taken will be submitted to the Commission. If the violation involves prohibited conduct of a former officer or employee, the Commission may recommend to the administering City authority that no contract be made or that the contract be terminated and that proceedings be begun anew in order to prevent injury to the City or to avoid an unfair advantage accruing to a competitor by reason of the violation. Upon receipt of the written report of the disciplinary action taken, or in the event no report is received, the Commission shall review such matter and make such further recommendation as may be appropriate.

Section 6. The repeal or amendment of various sections of chapter 4.16 of the Seattle Municipal Code by this ordinance shall not relieve any person of the obligation to have complied with the provisions of such chapter as in effect prior to such repeal or amendment, and any offense committed, conduct engaged in or penalty or forfeiture incurred while the prior section was in force shall be punished or enforced as if the prior section were in force, notwithstanding such amendment or repeal, unless a contrary intention is expressly declared in the amendatory or repealing ordinance, and every such amendatory or repealing ordinance shall be so construed as to save all proceedings under the amended or repealed ordinance pending at the time of the this ordinance, unless a contrary intention is expressly declared herein.

Section 7. The Ethics and Elections Commission and the City Council intends to monitor the impacts of defining "City contractor" in Section 2 and applying provisions of the City's Ethics Code to City contractors in Sections 3 and 4 of this ordinance. The Ethics and Elections Commission is requested to:

a) Recognize all provisions related to City contractors in this ordinance as part of a two year pilot program subject to further evaluation;

b) Provide the City Council with recommendations on whether to continue, modify or eliminate City contractor provisions in June, 2011;

c) Submit an annual report to the City Council on complaints, investigations, advisory opinions, findings and rulings on matters related to City contractors; and

d) Work with the Department of Executive Administration to develop and implement a plan for educating City departments and City contractors about the new provisions related to City contractors adopted in this ordinance.

Section 8. Section 4.16.030, which was last amended by section 2 of this Ordinance, is amended as follows 90 days after the effective date of this ordinance:

"Covered Individual" means any City officer, City employee, City contractor or City volunteer. Covered Individual also includes every individual who was a City officer, City employee, City contractor or City volunteer at the time of the act or omission that is alleged to have violated this chapter, even if he or she no longer has that status.

Section 9. This ordinance shall take effect and be in force 30 days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 15th day of June, 2009, and signed by me in open session in authentication of its passage this

15th day of June, 2009.

RICHARD CONLIN,
President of the City Council

Approved by me this 22nd day of June, 2009.

GREGORY J. NICKELS,
Mayor

Filed by me this 24th day of June, 2009.

(Seal) JUDITH E. PIPPIN,
City Clerk.

Publication ordered by JUDITH PIPPIN,
City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, June 29, 2009.
6/29(240880)

ORDINANCE _____

AN ORDINANCE related to the Seattle Ethics code, amending sections 4.16.020 to state the purpose of the Ethics Code in positive terms; 4.16.030 to add new definitions and bring some City contractors under the Commission's jurisdiction; 4.16.070 to expand the list of prohibited financial interests, require disclosure of appearances of conflicts of interest, create a mechanism for waiving the bar on dealing with former employers and clients, and to make several other changes intended to clarify the Ethics Code's prohibitions; 4.16.075 to extend from one year to two the bar on assisting others in matters in which an individual subject to the Ethics Code participated while a City employee, and to limit communications on behalf of others between former employees and their employing agencies; and 4.16.090 to create a mechanism in the Ethics Code for the Commission to administratively dismiss complaints, and to clarify how hearings are scheduled.

WHEREAS, the Ethics and Elections Commission has completed a full scale review of the Ethics Code, the first full scale review the Code has undergone in the past twenty years; and

WHEREAS, over the past twenty years, several other cities have adopted Ethics Codes, allowing the Commission to draw on best practices from around the nation; and

WHEREAS, the Ethics and Elections Commission determined that certain amendments to the Ethics Code can make the Code easier to understand for the public and the City employees to whom the Code applies; and

WHEREAS, the official duties of an elected official and his or her staff members include providing constituent services on an impartial basis to people who seek assistance from their elected representatives in dealing with City departments; and

WHEREAS, the Ethics and Elections Commission determined that taking advantage of new technologies to enhance transparency can create a better informed citizenry, and serve as an important element of an effective Ethics Code; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 4.16.020, which was last amended by Ordinance 115548, is amended as follows:



1 A. The City finds that the proper operation of democratic representative government requires
2 that public officers and employees be independent, impartial, and responsible to the people; that
3 government decisions and policy be made in the proper channels of the governmental structure;
4 that public office not be used for personal gain; and that the public have confidence in the
5 integrity of its government. Accordingly, it is the purpose of this chapter to establish ethical
6 standards of conduct for all officers and employees of the City, whether elected or appointed,
7 paid or unpaid; to set forth those acts that are incompatible with such standards; to require
8 disclosure by such officers and employees of private financial or other interests in matters
9 affecting the City; and to provide effective means for enforcement thereof. This chapter is not to
10 be construed so as to impair the ability of City officers and employees to participate in
11 ceremonial, representational, or informational functions in the pursuit of their official duties.
12
13

14
15 B. City officers and employees will demonstrate the values of integrity in the performance of the
16 City's business, accountability to the law and to the people we serve, stewardship of the City's
17 resources, and independence in the performance of our jobs. City employees should recognize
18 that public service is a sacred trust, and should strive to live up to the highest ethical standards.

19 C. This chapter shall be liberally construed in favor of protecting the public's interest in full
20 disclosure of conflicts of interest and promoting ethical standards of conduct for City officers
21 and employees.
22

23 ~~((C))~~D. This Code shall be interpreted and applied ~~((in a manner consistent with the maxim that~~
24 ~~"De minimis non curat lex" and))~~ to allow inadvertent minor violations to be corrected and cured
25 without full hearing in conformance with the spirit and purpose of this Code.
26
27



1 Section 2. Section 4.16.030, which was last amended by Ordinance 122242, is amended
2 as follows:

3 As used in this chapter, the following terms shall have the meanings indicated.

4
5 ~~((A.))~~ "Ad hoc advisory committee" means: 1) any advisory committee expressly designated by
6 ordinance as "ad hoc"; or 2) any advisory committee created by means other than by federal or
7 state law, City Charter, or City ordinance, including by resolution, executive order, or other
8 similar action.

9 "Administrator" means the Executive Director of the Seattle Ethics and Elections
10 Commission.

11
12 "Advisory committee" means a committee, board, commission or other similar City
13 entity that does not have the authority to enact, administer, interpret, or execute City laws, but
14 does provide advice or recommendations to a City entity that does have such authority.

15 "Appointing authority" means a person authorized by ordinance or Charter to employ
16 others on behalf of the City, usually the head of a department. With reference to a City
17 contractor it is the person who is authorized to award the contract.

18
19 ~~((B.))~~ "Assist" ((shall have the meaning set forth at RCW 42.18.050.1)) means to act, or offer or
20 agree to act, in such a way as to help, aid, advise, furnish information to, or otherwise provide
21 assistance to another person, believing that the action is of help, aid, advice, or assistance to the
22 person and with intent so to assist such person.

23
24 ~~((C.))~~ "Board of Ethics" or "Board" or "Commission" means the Seattle Ethics and Elections
25 Commission established by Section 3.70.010.



1 ~~((D:))~~ "City agency" means every department, office, board, commission, or committee of the
2 City, or any subdivision thereof, but excludes public corporations and ad hoc advisory
3 committees.

4 "City contractor" means an individual who spends more than 1,000 hours in any twelve-
5 month period providing services to a City agency under a contract, other than a contract of
6 employment.

7 "City employee" means every individual appointed to a position of employment in any
8 City agency.

9 ~~((E:))~~ "City officer ~~((or employee))~~" means every individual elected or appointed to an office
10 ~~((or position of employment))~~ in any City agency, whether such individual is paid or unpaid.
11 ~~((For purposes of Sections 4.16.090 G and 4.16.100 B only, "City employee" also includes every~~
12 ~~individual who was a City employee at the time of the act or omission that is alleged to have~~
13 ~~violated this chapter, even though he or she is not a City employee at the time of the hearing or~~
14 ~~appeal provided under those subsections:))~~

15 "Communicate," for the purposes of SMC 4.16.075, means to communicate in any form,
16 including, without limitation, personally, through another person, by letter, by electronic mail, or
17 by telephone.

18 "Confidential Information" means (i) specific information, rather than generalized
19 knowledge, that is not available to a person who files a public records request, and (ii)
20 information made confidential by law.

21 "Covered Individual" means any City officer, City employee, City contractor or City
22 volunteer. Covered Individual also includes every individual who was a City officer, City
23



1 employee, City contractor or City volunteer at the time of the act or omission that is alleged to
2 have violated this chapter, even if he or she no longer has that status.

3 "City volunteer" means someone who volunteers services to the City.

4 "Employee member of an advisory committee" means a paid City officer or employee
5 who serves on an advisory committee by virtue of their paid position with the City.

6 "Executive Director" means the Executive Director of the Seattle Ethics and Elections
7 Commission.

8 ~~((F.)) "Immediate family" means a spouse or domestic partner, child, child of a spouse or~~
9 ~~domestic partner, sibling, sibling of a domestic partner, brother-in-law, sister-in-law, parent,~~
10 ~~parent of a spouse or domestic partner, a person for whom the Covered Individual is a legal~~
11 ~~guardian, or a person claimed as a dependent on the Covered Individual's most recently filed~~
12 ~~federal income tax return((:~~
13 ~~1. — A spouse or domestic partner as contemplated by Sections 4.30.010 — 4.30.020;~~
14 ~~2. — Any dependent parent, parent in law, child or son in law or daughter in law; or~~
15 ~~3. — Any parent, parent in law, child, son in law, daughter in law, sibling, uncle, aunt,~~
16 ~~cousin, niece or nephew residing in the household of the City officer or employee)).~~
17 ~~((G. "Person" means individual, association, corporation, or other legal entity.))~~
18 ~~((H. "Executive Director" means the Executive Director of the Seattle Ethics and Elections~~
19 ~~Commission.))~~
20 ~~((I. "Advisory committee" means a committee, board, commission or other similar City~~
21 ~~entity that does not have the authority to enact, administer, interpret, or execute City laws, but~~
22 ~~does provide advice or recommendations to a City entity that does have such authority.))~~
23



1 ~~((J. "Ad hoc advisory committee" means: 1) any advisory committee expressly designated by~~
2 ~~ordinance as "ad hoc"; or 2) any advisory committee created by means other than by federal or~~
3 ~~state law, City Charter, or City ordinance, including by resolution, executive order, or other~~
4 ~~similar action.))~~

5 ~~((K.))~~ "Matter" means an application, submission, request for a ruling or other determination,
6 permit, contract, claim, proceeding, case, decision, rulemaking, legislation, or other similar
7 action. Matter includes the preparation, consideration, discussion, or enactment of administrative
8 rules or legislation. Matter does not include advice or recommendations regarding broad policies
9 and goals.

10
11 ~~((L.))~~ "Participate" means to consider, investigate, advise, recommend, approve, disapprove,
12 decide, or take other similar action.

13
14 "Person" means an individual, association, corporation, or other legal entity.

15 ~~((M.))~~ "Proceeding" means a matter that involves a named party or parties in which a City
16 agency administers, interprets, or executes City laws. Proceeding does not include the
17 preparation, consideration, discussion, or enactment of administrative rules or legislation.

18 ~~((N. "Employee member of an advisory committee" means a paid City officer or employee~~
19 ~~who serves on an advisory committee by virtue of their paid position with the City.))~~

20
21 Section 3. Section 4.16.070, which was last amended by Ordinance 122242, is amended
22 as follows:

23 ~~((No))~~ A Covered Individual ((current City officer or employee shall)) may not:

24
25 **1. Disqualification From Acting On City Business.**



1 a. ~~((Engage or have engaged in any transaction or activity, which is, or would to a reasonable~~
2 ~~person appear to be, in conflict with or incompatible with the proper discharge of official~~
3 ~~duties, or which impairs, or would to a reasonable person appear to impair, the officer's or~~
4 ~~employee's independence of judgment or action in the performance of official duties and fail~~
5 ~~to disqualify him or herself from official action in those instances where the conflict occurs,~~
6 ~~except as permitted by Section 4.16.071;~~

7
8 b. ~~Have a financial or other private interest, direct or indirect, personally or through a member~~
9 ~~of his or her immediate family, in any matter upon which the officer or employee is required~~
10 ~~to act in the discharge of his or her official duties, and fail to disqualify himself or herself from~~
11 ~~acting or participating,)) Participate in a matter in which any of the following has a financial~~
12 ~~interest, except as permitted by Section 4.16.071:~~

13 (i) the Covered Individual;

14 (ii) an immediate family member of the Covered Individual;

15 (iii) an individual residing with the Covered Individual;

16 (iv) a person the Covered Individual serves as an officer, director, trustee, partner or
17 employee;

18 (v) a person with which the Covered Individual is seeking or has an arrangement
19 concerning future employment.

20
21
22 b. Participate in a matter in which a person that employed the Covered Individual in the
23 preceding 12 months, or retained the Covered Individual or his or her firm or partnership in
24 the preceding 12 months, has a financial interest; provided, however, that the Executive
25 Director shall waive this section when:



1 (i) the Covered Individual's appointing authority or the authority's designee makes a
2 written determination that there is a compelling City need for the Covered Individual to
3 participate in a matter involving a prior employer or client, and submits that determination
4 with a written plan showing how the authority will safeguard the City's interests, and

5 (ii) the Executive Director determines that the authority's plan is satisfactory.

6 c. ~~((Fail to disqualify himself or herself from acting on any transaction which involves the~~
7 ~~City and any person who is, or at any time within the preceding twelve (12) month period has~~
8 ~~been a private client of his or hers, or of his or her firm or partnership;~~

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

15 Perform any official duties when it could appear to a reasonable person, having knowledge
16 of the relevant circumstances, that the Covered Individual's judgment is impaired because of
17 either (1) a personal or business relationship not covered under subsection a or b above, or (2)
18 a transaction or activity engaged in by the Covered Individual. It is an affirmative defense to a
19 violation of this subsection c if the Covered Individual, prior to performing the official act,
20 discloses the relationship, transaction or activity in writing to the Executive Director and the
21 Covered Individual's appointing authority, and the appointing authority or the authority's
22 designee either approves or does not within one week of the disclosure disqualify the Covered
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1 Individual from acting. For an elected official to receive the same protection, the official must
2 file a disclosure with the Executive Director and the City Clerk. If a Covered Individual is
3 charged with a violation of this subsection, and asserts as an affirmative defense that a
4 disclosure was made, the burden of proof is on the Covered Individual to show that a proper
5 disclosure was made and that the Covered Individual was not notified that he or she was
6 disqualified from acting.

7
8 d. Sections 4.06.070.1.a and 1.b shall not apply if the prohibited financial interest is shared
9 with a substantial segment of the City's population.

10 **2. Improper Use of Official Position.**

11 a. Use or attempt to use his or her official position for a purpose that is, or would to a
12 reasonable person appear to be, primarily for the private benefit of the Covered Individual
13 ~~((officer or employee))~~ or any other person, rather than primarily for the benefit of the City(~~;~~
14 ~~or to achieve a private gain or an exemption from duty or responsibility for the officer or~~
15 ~~employee or any other person)), except as permitted by Section 4.16.071;~~

16
17 b. Use or attempt to use, or permit the use of any ~~((person, funds, or property under his or her~~
18 ~~official control, direction, or custody, or of any-))~~ City funds or City, property, or personnel,
19 for a purpose which is, or to a reasonable person would appear to be, for other than a City
20 purpose, except as permitted by Section 4.16.071; provided, that nothing shall prevent the
21 private use of City property which is available on equal terms to the public generally (such as
22 the use of library books or tennis courts), the use of City property in accordance with
23 municipal policy for the conduct of official City business (such as the use of a City
24 automobile), if in fact the property is used appropriately; or the use of City property for
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1 participation of the City or its officials in activities of associations ~~((of))~~ that include other
2 governments or governmental officials;

3 c. Except in the course of official duties, assist any person in any ~~((City transaction))~~ matter
4 ~~((where such City officer or employee's assistance is, or to a reasonable person would appear~~
5 ~~to be, enhanced by that officer or employee's position with the City)) involving the Covered
6 Individual's department; provided, ~~((however))~~ further, that except in the course of official
7 duties, a Covered Individual in the Mayor's office or the legislative department may not assist
8 any person in any matter. This ~~((this subsection 4.16.070 A1e))~~ subsection c shall not apply to
9 any ~~((officer or employee))~~ Covered Individual appearing on his or her own behalf ~~((or~~
10 representing himself or herself as to)) on any matter, or on behalf of any business entity solely
11 owned by the Covered Individual ~~((in which he or she has a proprietary interest))~~, if not
12 otherwise prohibited by ordinance;~~

13
14
15 d. Influence or attempt to influence a City decision to contract with, or the conduct of City
16 business with, a person in which any of the following has a financial interest:

17 (i) the Covered Individual;

18 (ii) an immediate family member of the Covered Individual;

19 (iii) an individual residing with the Covered Individual;

20 (iv) a person the Covered Individual serves as an officer, director, trustee, partner or
21 employee;

22 (v) a person with which the Covered Individual is seeking or has an arrangement
23 concerning future employment.
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1 ~~((Regardless of prior disclosure thereof, have a financial interest, direct or indirect, personally~~
2 ~~or through a member of his or her immediate family, in a business entity doing or seeking to~~
3 ~~do business with the City, and influence or attempt to influence the selection of, or the conduct~~
4 ~~of business with, such business entity by the City.))~~

5 **3. Acceptance of ((Gifts or Loans)) Things of Value.**

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

13 **4. ~~((Disclosing privileged))~~ Disclosure of confidential information.**

14 a. Disclose or use any ~~((privileged or proprietary))~~ confidential information gained by reason
15 of his or her official position for ~~((a purpose which is for))~~ other than a City purpose~~((;~~
16 ~~provided, that nothing shall prohibit the disclosure or use of information which is a matter of~~
17 ~~public knowledge, or which is available to the public on request)).~~

18 **5. ~~((Financial or Beneficial))~~ Interest in City ((Transaction)) Contracts.**

19 a. ~~((Regardless of prior disclosure thereof hold))~~ Hold or acquire a financial or beneficial
20 interest, direct or indirect, personally or through a member of his or her immediate family, in
21 any contract which, in whole or in part, is~~((, or which may be,))~~ made by, through, or under
22 the supervision of ~~((such officer or employee or which may be made for the benefit of his or~~
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1 ~~her office~~ the Covered Individual, or which is made by or through a person supervised,
2 directly or indirectly, by the Covered Individual, except as permitted by Section 4.16.071; or
3 accept, directly or indirectly, any compensation, gratuity, or reward in connection with such
4 contract from any other person or entity beneficially interested therein~~((, in violation of~~
5 ~~Chapter 42.23 RCW.))~~ This subsection shall not apply to the furnishing of electrical, water,
6 other utility services or other services by the City at the same rates and on the same terms as
7 are available to the public generally.

8
9 b. ~~((Regardless of prior disclosure thereof, be beneficially interested, directly or~~
10 ~~indirectly, in any contract or transaction which may be made by, through or under the~~
11 ~~supervision of such officer, in whole or in part, or which may be made for the benefit of his or~~
12 ~~her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection~~
13 ~~with such contract or transaction from any other person beneficially interested therein, except~~
14 ~~as permitted by Section 4.16.071. This subsection shall not apply to the furnishing of~~
15 ~~electrical, water, other utility services or other services by the City at the same rates and on the~~
16 ~~same terms as are available to the public generally.))~~

17
18 Unless prohibited by subsection a, have a financial interest, direct or indirect,
19 personally or through a member of his or her immediate family, in any contract to which the
20 City or any City agency may be a party, and fail to disclose such interest to the City
21 contracting authority prior to the formation of the contract or the time the City or City agency
22 enters into the contract; provided, that this subsection b shall not apply to any contract
23 awarded through the public bid process in accordance with applicable law.
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1 Section 4. Section 4.16.075, which was last amended by Ordinance 116377, is amended
2 as follows:

3 A. ~~((No))~~ A former ((officer or employee shall)) Covered Individual may not disclose or use any
4 ~~((privileged or proprietary))~~ confidential information gained by reason of his(~~(/))~~ or her City
5 work~~((employment unless the information is a matter of public knowledge or is available to~~
6 ~~the public on request))~~;

7
8 B. ~~((No))~~ A former City officer or City employee ((shall)) may not, during the period of ~~((one~~
9 ~~(1)))~~ two years after leaving City Office or employment~~((:~~

10 ~~((1. A)),~~ assist any person in proceedings involving the agency of the City with which he/she
11 was previously employed, or) on a matter in which he or she ~~((was officially involved,))~~
12 participated,~~((or acted in the course of duty;~~

13 2. Represent any person as an advocate in any matter in which the former officer or employee
14 was officially involved while a City officer or employee))

15
16 C. A former City officer or City employee may not, during the period of one year after leaving
17 City office or employment communicate, on behalf of any person on a matter involving the
18 City, with an employee of the agency of the City with which he or she was previously
19 employed;

20
21 ~~((3.))~~ D. A former Covered Individual may not, during the period of one year after leaving City
22 office or employment, ((P))participate as a competitor in any competitive selection process for
23 a City contract in which he or she assisted the City in determining the project or work to be
24 done or the process to be used in selecting a contractor.



1 ~~((C))~~E. A ~~((City officer))~~ Covered Individual, who contracts with a former ~~((City officer or~~
2 ~~employee))~~ Covered Individual for expert or consultant services within one ~~((1))~~ year of the
3 latter's leaving City work~~((office or employment))~~, shall promptly inform the
4 ~~((Administrator))~~ Executive Director about the agreement.

5 ~~((D))~~E. The prohibitions of Sections 4.16.075_B~~((1))~~ and 4.16.075~~((B2))~~.C. shall not apply to
6 former City officers or City employees ~~((acting on behalf))~~ acting as employees or agents of a
7 governmental agency unless such ~~assistance or representation~~)that governmental agency's
8 interest in the matter is adverse to the interest of the City.

9
10 Section 5. Section 4.16.090, which was last amended by Ordinance 118735, is amended
11 as follows:

12 * * *

13
14 C. Within ~~((thirty (30)))~~ 30 days after receipt of a complaint, the Executive Director shall
15 ~~((conduct a preliminary investigation to))~~ review the complaint to determine whether a complaint,
16 on its face, alleges facts that, if true, would constitute a violation of Chapter 4.16. At the request
17 of the Executive Director, the Commission may, for good cause shown, extend the time for
18 completion of the ~~((preliminary investigation))~~ review. If the Commission determines that the
19 ~~((preliminary investigation))~~ review must be completed in less than thirty ~~((thirty (30)))~~ 30 days
20 in order to avoid prejudice or irreparable harm to the person alleged to have violated this chapter,
21 the Commission shall order the Executive Director to complete the ~~((preliminary~~
22 ~~investigation))~~ review in a shorter period of time, and the Executive Director shall comply.

23
24 D. If the Executive Director determines, after investigation, that there are no reasonable
25 grounds to believe that a violation has occurred, or determines that the violation was inadvertent
26



1 and minor, the Executive Director shall dismiss the complaint. If the Executive Director does so
2 dismiss the complaint, he or she shall do so in writing, setting forth the facts and the provisions
3 of law upon which the dismissal is based, and shall provide a copy of the written dismissal to the
4 complainant, to the person named in the complaint as the alleged violator and to the
5 Commission. A complainant may appeal a dismissal under this subsection to the Commission
6 under rules promulgated by the Commission.

7
8 E. The Executive Director may, after investigation, seek an administrative dismissal of the
9 complaint from the Commission when he or she determines that there are reasonable grounds to
10 believe that:

- 11 1. A violation occurred, but it was inadvertent or minor, but not both; or
12 2. A violation occurred, but appropriate actions have been taken to address the allegedly
13 unlawful conduct.

14
15 F. If, after investigation, the Executive Director has reason to believe that a material
16 violation of Chapter 4.16 has occurred, the Executive Director shall initiate an enforcement
17 proceeding by issuing to the alleged violator a charging document which includes the provisions
18 of Chapter 4.16 allegedly violated and the conduct that constitutes the violation(s), and shall
19 issue a copy of the charging document to the Commission(~~and schedule a hearing before the~~
20 ~~Commission)).~~

21
22 The Director shall schedule a hearing to commence within 60 days of the charging document.

23 The Commission Chair may, at any time, continue the hearing to another date. No hearing shall
24 be scheduled, however, while an Executive Director's recommendation for a settlement is
25 awaiting action by the Commission.



1 ~~((F))G. ((The Commission shall commence a hearing within thirty (30) days from the date that~~
2 ~~the Executive Director schedules the hearing.))~~ The Commission shall issue a written
3 determination stating whether the chapter has been violated and setting forth the facts and the
4 provisions of law upon which this determination is based. A copy of said determination shall be
5 delivered to the complainant, if any, to the person charged with the violation and, where
6 appropriate, to the person's superior.

7
8 ~~((G))H.~~ All hearings hereunder shall be conducted as "contested case" hearings under the
9 Administrative Code, Seattle Municipal Code Chapter 3.02 (Ordinance 102228) and the
10 Commission's rules and regulations. All hearings under this section shall be open to the public
11 unless closed upon the request of the City employee who is the subject of the charges being
12 heard, except that all hearings on charges against (1) City officials elected by the public, (2) the
13 Deputy Mayor, if any, (3) heads of departments and Executive Department offices, (4) members
14 of boards and commissions, and (5) those City employees who are represented by a labor union
15 that, on the date the charges were filed, had not reached written agreement with the City
16 concerning closing hearings on request, shall be open to the public. Regardless of whether the
17 hearing was closed, if the Commission determines this chapter was violated, the charges, all
18 recordings or transcripts of hearings that were made by the Commission, and the Commission's
19 written findings of fact and conclusions of law shall be made public.

20
21
22 ~~((H))I.~~ If the Commission determines that a City officer or City employee has violated the
23 provisions of this chapter, the Commission may recommend that the officer or employee be
24 subject to disciplinary action. In addition to any other penalty herein or otherwise provided by
25 law, a violation shall be cause for suspension, discharge, or removal from office, or such other
26



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

21
22 Section 6. The repeal or amendment of various sections of chapter 4.16 of the Seattle
23 Municipal Code by this ordinance shall not relieve any person of the obligation to have complied



1 with the provisions of such chapter as in effect prior to such repeal or amendment, and any
2 offense committed, conduct engaged in or penalty or forfeiture incurred while the prior section
3 was in force shall be punished or enforced as if the prior section were in force, notwithstanding
4 such amendment or repeal, unless a contrary intention is expressly declared in the amendatory or
5 repealing ordinance, and every such amendatory or repealing ordinance shall be so construed as
6 to save all proceedings under the amended or repealed ordinance pending at the time of the this
7 ordinance, unless a contrary intention is expressly declared herein.

8
9 Section 7. This ordinance shall take effect and be in force 30 days from and after its
10 approval by the Mayor, but if not approved and returned by the Mayor within ten days after
11 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

12 Passed by the City Council the ____ day of _____, 2009, and
13 signed by me in open session in authentication of its passage this
14 ____ day of _____, 2009.

15
16 _____
17 President _____ of the City Council

18 Approved by me this ____ day of _____, 2009.

19
20 _____
21 Gregory J. Nickels, Mayor

22 Filed by me this ____ day of _____, 2009.

23
24 _____
25 City Clerk

26 (Seal)

