

#### 4.16.070 - Prohibited conduct

A covered individual may not:

##### A. Disqualification from acting on City business

1. Participate in a matter in which any of the following has a financial interest, except as permitted by Section 4.16.071
  - a. the covered individual;
  - b. an immediate family member of the covered individual;
  - c. an individual residing with the covered individual;
  - d. a person the covered individual serves as an officer, director, trustee, partner or employee;
  - e. a person with which the covered individual is seeking or has an arrangement concerning future employment.
2. 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:
  - a. 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
  - b. the Executive Director determines that the authority's plan is satisfactory.
3. 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 1 or 2 above, or (2) a transaction or activity engaged in by the covered individual. It is an affirmative defense to a violation of this subsection 3 if the covered individual, before 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.
4. Subsections 4.16.070.A.1 and 4.16.070.A.2 do not apply if the prohibited financial interest is shared with a substantial segment of the City's population.

##### B. Improper use of official position

1. Use or attempt to use his or her official position for a purpose that is, or would to a reasonable person appear to be, primarily for the private benefit of the covered individual or any other person, rather than primarily for the benefit of the City, except as permitted by Section 4.16.071;
2. Use or attempt to use, or permit the use of any City funds, 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 that include other governments or governmental officials;

3. Except in the course of official duties, assist any person in any matter involving the covered individual's department; provided, 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 subsection c does not apply to any covered individual appearing on his or her own behalf on any matter, or on behalf of any business entity solely owned by the covered individual, if not otherwise prohibited by ordinance;
4. 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:
  - a. the covered individual;
  - b. an immediate family member of the covered individual;
  - c. an individual residing with the covered individual;
  - d. a person the covered individual serves as an officer, director, trustee, partner or employee;
  - e. 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.

C. Acceptance of things of value

1. 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 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.

D. Disclosure of confidential information

1. Disclose or use any confidential information gained by reason of his or her official position for other than a City purpose.

E. Interest in City contracts

1. 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 made by, through, or under the supervision of 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 in the contract. This subsection does 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.
2. Unless prohibited by subsection 1, 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

before the formation of the contract or the time the City or City agency enters into the contract; provided, that this subsection 2 does not apply to any contract awarded through the public bid process in accordance with applicable law.

- F. Retaliate against a City Employee as prohibited under Section 4.20.810 of the Whistleblower Protection Code; or directly or indirectly threaten or intimidate a City employee for the purposes of interfering with that employee's right to communicate with the Commission, its employees, or its agents; or directly or indirectly threaten or intimidate an employee for the purposes of interfering with or influencing an employee's cooperation in an inquiry or investigation, or interfering or influencing testimony in any investigation or proceeding arising from a report; or knowingly take or direct others to take any action for the purpose of:
  - 1. influencing an employee's cooperation in an inquiry or investigation based on a report of improper governmental action; or
  - 2. interfering or influencing testimony in any investigation or proceeding arising from a report.
- G. Application to Certain Members of Advisory Committees
  - 1. Subsections 4.16.070.A.1 and 4.16.070.A.2 apply to employee members of advisory committees. Subsections 4.16.070.A.1 and 4.16.070.A.2 do not apply to other members of advisory committees. This subsection G instead applies to all other members of advisory committees. No member of an advisory committee to whom this subsection applies shall:
    - a. Have a financial interest, direct or indirect, personally or through a member of his or her immediate family, in any matter upon which the member would otherwise act or participate in the discharge of his or her official duties, and fail to disqualify himself or herself from acting or participating in the matter.
    - b. Engage or have engaged in any transaction or activity which would to a reasonable person appear to be in conflict with or incompatible with the proper discharge of official duties, or which would to a reasonable person appear to impair the member's independence of judgment or action in the performance of official duties, without fully disclosing on the public record of the advisory committee the circumstances of the transaction or activity giving rise to such an appearance before engaging in the performance of such official duties. Such a member shall also file with the Commission a full written disclosure of the circumstances giving rise to such an appearance before engaging in such official duties. If such prior written filing is impractical, the member shall file such a disclosure as soon as practical.

( [Ord. 124362](#), § 13, 2013; Ord. 123010, § 3, 2009; Ord. 122242, § 2, 2006; Ord. 121859 § 1, 2005; Ord. 116377 § 5, 1992; Ord. 115548 § 2, 1991; Ord. [109950](#) § 1(part), 1981; Ord. [108882](#) § 14.16.070, 1980.)