

SMC 4.16.020 Purpose.

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 strive to live up to the highest ethical standards.

BC. 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.

CD. 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.

SMC 4.16.030. Definitions

~~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~~ performing services for or holding an office, position, employment or membership in a City agency, whether by election, appointment, or contract, whether serving with or without compensation, on a full, regular, part-time, intermittent, or consultant basis. An individual performing services under a contract with the City is subject to this chapter if he or she spends more than 1,000 hours in any twelve-month period providing services to a City agency. 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.

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 employee is a legal guardian, or a person claimed as a dependent on the employee's most recently filed federal income tax return:

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.~~

O. “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.

P. “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.

SMC 4.16.070. Prohibited conduct

No A ~~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;~~

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

~~b. Participate in a matter in which a person that employed the employee in the preceding 12 months, or retained the employee 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 employee's department head makes a written determination that there is a compelling City need for the employee to participate in a matter involving a prior employer or client, and submits that determination with a written plan showing how the department will safeguard the City's interests, and~~

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

- ~~e. Fail to disqualify himself or herself from acting on any transaction which involves the City and any person who is, or at any time within the preceding twelve (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.~~
- c. Perform any official duties when it would appear to a reasonable person, having knowledge of the relevant circumstances, that any person can enjoy the employee's favor in the performance of those official duties. A City employee may, however, perform those official duties when he or she files with the Commission and the employee's department head, a full written disclosure of the circumstances giving rise to such an appearance prior to engaging in such official duties. Filing with the Commission shall be sufficient for an employee who does not have a department head.
- 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 to a reasonable person appear to be, primarily for the private benefit of the 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 employee's department;~~ provided, however further, that except in the course of official duties, an employee in the Mayor's office or the legislative department may not assist any person in any matter. ~~This subsection 4.16.070 A 1e paragraph (c) shall not apply to any officer or employee 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 employee 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 employee;
- (ii) an immediate family member of the employee;
- (iii) an individual residing with the employee;
- (iv) a person the employee serves as an officer, director, trustee, partner or employee;
- (v) a person with which the employee is seeking or has an arrangement concerning future employment,

~~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 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. Disclosingure of privileged 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 H~~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, or which is made by or through a person supervised, directly or indirectly, by the officer or employee,~~ 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 42.23 RCW.; 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.

b. Unless prohibited by paragraph (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 paragraph shall not apply to any contract awarded through the public bid process in accordance with applicable law.

SMC 4.16.075. Prohibited conduct after leaving City.

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

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

C. A former employee may not, during the period of one year after leaving City office or employment:

1. 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 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;

2. 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.

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

~~DE.~~ The prohibitions of Sections 4.16.075.B1 and 4.16.075B2.C.1 shall not apply to former employees acting on behalf as employees or agents of a governmental agency unless such assistance or representation that governmental agency's interest in the matter or proceeding is adverse to the interest of the City.

F. Section 4.16.075 shall not apply to former members of Advisory committees, or former employees who performed services to the City under contract.

SMC 4.16.090 Complaints, investigations, hearings, and enforcement.

C. Within thirty (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.~~ preliminary investigation review. If the Commission determines that the ~~preliminary investigation review~~ preliminary investigation review must be completed in less than thirty (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~~ 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 paragraph 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.

~~EF.~~ 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.

~~FG.~~ ~~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.

(Reletter subsequent paragraphs.)