



Code of Ethics



*For
City Councilmembers,
Mayor and
City Employees*

TABLE OF CONTENTS

Introduction	1
Section 1 – Policy	2
Section 2 – Definitions	2
Section 3 – Personal Gain or Profit.....	4
Section 4 – Conflict of Interest.....	4
Section 5 – Acceptance of Gifts.....	5
Section 6 – Campaign Activities	6
Section 7 – Board of Ethics.....	6
Section 8 – Complaints Against Employees	10

Resolution No. 91-54 – Passed April 2, 1991

Amendments

Resolution No. 94-179 – Passed August 2, 1994

Resolution No. 94-184 – Passed September 21, 1994

Resolution No. 94-188 – Passed November 1, 1994

Resolution No. 96-232 – Passed May 7, 1996

Resolution No. 10-590 – Passed July 20, 2010

INTRODUCTION

- The Mayor and City Councilmembers are elected to exercise their discretionary powers pursuant to the laws and the Constitution which may often involve honest disagreement on policy matters; and
- In the exercise of these powers the Mayor and the Councilmembers should operate within a framework that will protect the public trust and ensure public confidence in the conduct of elected officials and public employees; and
- Good government should operate and conduct itself in an open and impartial manner, and to a standard that ensures an efficient, fair and accountable system; and
- The Code of Ethics includes a method to appoint an alternate Board of Ethics member in cases of recusement or other unavailability; and
- The Code of Ethics includes sanctions for violations of the Code of Ethics; and
- The Code of Ethics grants the Board of Ethics subpoena powers in order for the Board to complete a full and fair investigation of any written complaint before the Board; and
- The Code of Ethics provides for the stay of the complaint proceedings during the City Council's consideration of the Board of Ethics application for subpoena power or during any proceeding to compel a person to respond to a properly issued subpoena.

Section 1 – Policy

The City of Federal Way is committed to conducting its business in a fair, open, efficient and accountable manner. Public Officials and Employees shall conduct their public and private actions and financial dealings in a manner that shall present no apparent or actual conflict of interest between the public trust and that private interest. Each Official and Employee is assumed and expected to act in accordance with all laws and codes of ethics that may apply to his or her position, as well as striving to avoid even an appearance of impropriety in the conduct of his or her office or business. Each Employee should be informed of this Code of Ethics and meet its requirements. Questions regarding its interpretation should be brought to an Employee's Supervisor and the City Attorney for interpretations of this Code and should proceed through processes provided for in the Personnel Policy Manual to act upon allegations of misconduct in violation of this Code. Questions regarding the interpretation of the Code as applied to the Mayor and Councilmembers and allegations of violation of this Code by the Mayor and/or Councilmembers shall be referred to the Board of Ethics through the process established herein.

Section 2 – Definitions

Throughout this Code of Ethics, the following definitions shall apply.

2.1 Elected Officials

For the purposes of this Code of Ethics only, "Elected Officials" or "Mayor" or "Councilmembers" also includes members of City Boards, Commissions, Committees, or other multi-member bodies appointed by the City Council.

2.2 Family

Spouse, parent, child, sibling, aunt, uncle, niece, nephew, cousin, grandchild, grandparent or any parent-in-law, son- or daughter-in-law, or brother- or sister-in-law.

2.3 Financial Interest

(a) Existence – A financial interest may be deemed to exist in any of the following situations:

- (1) A creditor, debtor or ownership interest in any corporation, partnership, joint venture or other entity (including without limitation, ownership evidenced by stock purchase) in an amount or value to or greater than a one percent (1%) interest in any such entity, or
- (2) Any paid employee, agent, consultant or officer of any corporation, partnership, joint venture, business or other entity.

- (b) Exceptions – Notwithstanding the provisions of Section 2.3 (a)(1) and (2), a financial interest shall not be deemed to exist in any component investment within any fund or plan where an owner of an interest in a mutual or other pooled investment fund or in any employee or retirement benefit plan (including without limitation, pension plans, profit sharing plans and deferred compensation plans): 1) has no right to control or influence the selection of component investments; 2) has not influenced the selection of component investments; and 3) has not created or used the fund or plan to subvert the intent of this code.

2.4 **Gift**

A rendering of money, property, services, discount, loan forgiveness, payment of indebtedness, reimbursements from or payments by persons, other than the City of Federal Way for travel or lodging or anything else of value in return for which legal consideration of equal or greater value is not given and received, excluding:

- (a) Things of minimal value.
- (b) Any contribution under chapter 42.17 RCW (Disclosure – Campaign Finances – Lobbying – Records).
- (c) Any informational material transferred for the purpose of informing the recipient about matters pertaining to official City business, and that is not intended to financially benefit the recipient.
- (d) Any symbolic presentation not intended to financially benefit the recipient.
- (e) Things of value not used and that, within thirty (30) days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes;
- (f) Things of value received in the normal course of private business or social interaction or from family that are not related to public policy decisions or City actions.
- (g) The acceptance of a gift on behalf of the City pursuant to City Council rules regarding acceptance of gifts.

2.5 **Immediate Family**

Spouse and dependent children.

2.6 **Remote Interest**

A remote interest may be deemed to exist where an individual is:

- (a) An unpaid officer, Board member, or other person who functions in a decision-making capacity which can influence policy or funding of a corporation, partnership, joint venture or other entity;
- (b) A landlord or tenant of an entity contracting with the City of Federal Way; or,
- (c) A holder of less than one percent (1%) of the shares of, or ownership interest in a business entity contraction with the City; provided no interest

shall be deemed to be remote where an Elected Official influences or attempts to influence any other Elected Official or City Employee to take any action which financially benefits the Elected Official by or through the interest.

2.7 City Employee

Any individual who is appointed as an Employee by the appointing authority for the City.

Section 3 – Personal Gain or Profit

- 3.1 An Elected Official or Employee shall not knowingly use his or her office or position for personal or family gain or profit.
- 3.2 An Elected Official or Employee shall not use City-owned property or City services for personal or family gain or profit.
- 3.3 An Elected Official or Employee shall not use information acquired in confidence from a City customer, supplier, lessee or contractor for other than City purposes.

Section 4 – Conflict of Interest

- 4.1 An Elected Official or Employee shall not knowingly engage in activities which are in conflict, or which have the potential to create a conflict, with performance of official duties. Examples of conflicts, or potential conflicts of interest include but are not necessarily limited to, circumstances where the Elected Official or Employee:
 - (a) Influences the selection or non-selection of or the conduct of business between the City and any entity when the Elected Official or Employee has a financial interest.
 - (b) Solicits for himself or herself or for another, a gift or any other thing of value from the City or from any person or entity having dealings with the City; provided, however, that no conflict of interest for the Elected Official or Employee shall be deemed to exist with respect to solicitation for campaign contributions required to be reported under Chapter 42.17 RCW or for charitable contributions.
 - (c) Accepts any retainer, compensation, gift or other thing of value which is contingent upon a specific action or non-action by the City Council, Mayor or Employee.
 - (d) Accepts a gift in any manner other than as provided in Section 5 (Acceptance of Gifts).

- (e) Intentionally uses or discloses information not available to the general public and acquired by reason of his or her official position which financially benefits himself or herself, family, friends or others.
- 4.2 An Elected Official shall not take part in any official action, as that term is defined in Chapter 42.30 RCW, concerning any contract, property, or other matter of any kind, in which the Elected Official or his or her immediate family has a financial interest, or which otherwise creates a conflict of interest.
- 4.3 An Elected Official shall disclose the fact and extent of a remote interest for the official minutes of the City Council prior to Councilmembers taking any action related to the interest. In the event a Councilmember has remote interest, all action taken by the City Council related to such interest shall be by a vote sufficient for the purpose without counting the vote of the Councilmember having the remote interest.
- 4.4 **Restrictions After Leaving the City**
- (a) For one (1) year after leaving the City, the Elected Official or an Employee may not hold or acquire a financial interest, direct or indirect, personally or through their family, in any contract made by, through, or under their supervision, or accept, directly or indirectly, any compensation, gratuity, or reward from any person interested in such a contract or transaction.
 - (b) For one (1) year after leaving the City, the Elected Official or an Employee may not (a) assist anyone in proceedings involving the City where such Elected Official or Employee worked on a matter in which they were officially involved in the course of their duties; (b) represent any private person as an advocate on a matter in which they were involved; or
 - (c) Compete for a City contract when they were involved in determining the scope of work or the selection process. An Elected Official or an Employee may never disclose or use the City's privileged or proprietary information except to perform official duties.

Section 5 – Acceptance of Gifts

- 5.1 Except as provided in Section 2.4, an Elected Official or Employee may not accept gifts of cash in any amount.
- 5.2 The Elected Officials and City Employees may not accept personal gifts.

Section 6 – Campaign Activities

City Employees may participate in the political process only on their own time, and only outside of the workplace by working on campaigns for the elections of any person to any office, or for the promotion of or the opposition to any ballot proposition, and shall not use or authorize the use of the facilities of the City for such purposes except as may be authorized by law under the provisions of Chapter 42.17.130 RCW.

Section 7 – Board of Ethics

Complaint Against an Elected Official and Advisory Opinions Regarding Elected Officials

7.1 There is created a Board of Ethics for the City of Federal Way. The purpose of this Board of Ethics is to issue advisory opinions on the provisions of this Code of Ethics and to investigate and report to the City Council on any alleged violations of this Code of Ethics, all as set forth below.

7.2 The Board of Ethics shall be composed of three (3) members, and one (1) alternate member (“first alternate”) none of which shall be an Elected Official or City Employee. The Board members shall be appointed by the City Council. The alternate member may attend all meetings of the Board, but shall have no voting rights except as otherwise provided herein. The term of each Board member shall be three (3) years. The first three members shall be appointed for one (1), two (2) or three (3) year terms, respectively.

The first Chair of the Board shall be determined by the Council and the Chair shall be appointed to the three (3) year term. The other terms are to be determined by lot. After the first year of the Chair’s term, the Board shall determine and elect its Chair thereafter. The Chair shall serve for a period of one (1) year, unless reelected. In the event a Board member must recuse himself or herself or otherwise be unavailable to conduct Board business, the first alternate member shall serve in his/her place. If a second alternate member is required, the Board shall select such alternate member from a pool consisting of prior Board members who have served during the three (3) prior terms (“second alternate”). The second alternate Board member shall be chosen by agreement of the remaining Board members. In the event no former Board members are available, the City Council shall appoint an alternate Board member. In filling any vacancy or making an appointment to the Board of Ethics, the City Council shall strive to select members with diverse perspectives and areas of expertise appropriate to the review of ethical matters, and who are of good general reputation and character.

7.3 A majority of the Board of Ethics shall constitute a quorum. The Board shall meet as frequently as it deems necessary and in accordance with the provisions

of the Code. The Board shall adopt procedures consistent with the provisions of the Code governing the conduct of its meetings, investigations, hearings and the issuance of opinions.

7.4 **Specific Complaint Against a Councilmember**

- (a) Any person may submit a written complaint to the City Clerk alleging one (1) or more violations of this Ethics Code by an Elected Official. The allegation must set forth specific facts with precision and detail, sufficient for a Determination of Sufficiency by the Board. In addition, the complaint must set forth the specific sections and subsections of this Code that the facts violate, and the reasons why. Each complaint must be signed by the person or persons submitting it, must state the submitter's correct name, address at which mail may be personally delivered to the submitter, and the telephone number at which the submitter may be contacted.
- (b) The City Clerk shall submit that complaint to the Board for Determination of Sufficiency of the complaint. A complaint cannot be sufficient unless it precisely alleges and describes unjustified acts which constitute a prima facie showing a violation of a specified provision or provisions of this Code. The purpose of requiring that the complaint be sufficient is to ensure that the complaint is supported by identifiable facts, and to ensure that the complaint is not based on frivolous charges.
- (c) The Board shall submit a written report with a finding of sufficiency or insufficiency within ten (10) days of its receipt of the written complaint. The Determination of Sufficiency by the Board is final and binding, and no administrative or other legal appeal is available. If the finding is one of sufficiency of the complaint, then the complaint shall be investigated and reported as set forth below.
- (d) The Board shall conduct an investigation of the written complaint before it. The Board shall begin the investigation no later than ten (10) calendar days after the Determination of Sufficiency of the complaint and shall conclude the investigation no later than fourteen (14) calendar days after it commences the investigation unless a longer time period has been requested by the Board and has been approved by the Council; provided, however, that the running of these time periods shall be tolled and the complaint proceedings shall be stayed in the event the Board makes application to the City Council for subpoena power or in the event the City Council issues a subpoena and any person refuses to obey such subpoena. The stay of the complaint proceedings shall continue until such time as the subpoena is either reissued or denied by the City Council or until such time as a Superior Court issues an order on the subpoena. The Board shall render a written opinion, setting forth its findings of fact and conclusions and opinion as to whether or not the individual against whom the complaint was filed has violated the Code of Ethics.

- (e) The City Council may issue subpoenas in response to the Board's application for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under investigation by the Board or in connection with any hearing conducted by the Board. The Board shall request subpoena power by making a written application to the Mayor and Deputy Mayor describing in detail the subject matter of the proposed subpoena and an explanation of why such information is reasonably necessary in order to conduct the Board's investigation or hearing. The subpoena may be issued in the event the Mayor and Deputy Mayor determine the subpoena request is reasonable. In the event the Mayor and Deputy Mayor are unable to agree upon such a determination or the complaint alleges a violation of the Ethics Code by the Mayor or the Deputy Mayor, the entire City Council shall make a determination as to the reasonableness of the Board's application for subpoena power. In the event any person disobeys a subpoena, the City Council may invoke the aid of any Superior Court of the state. Such court may issue an order requiring such person to appear before the Board, to produce documentary evidence, and/or to provide testimony, and any failure to obey such order may be punished by that court as contempt.
- (f) No opinion may be issued by the Board unless a person or entity complained against has had an opportunity to present information on his, her or its behalf at a hearing before the Board.
- (g) A copy of the written opinion shall be delivered to the City Council and the complaining party within seven (7) calendar days of conclusion of the hearing unless a longer time period has been requested by the person against whom the complaint is focused, and has been approved by the Board unless a longer period has been requested by the Board and has been approved by the City Council.
- (h) In the event the advisory written opinion provides that the individual against whom the complaint has been filed has violated the Code of Ethics and the City Councilmembers adopt this opinion by a majority vote, then the City Council may take any of the following actions by a majority vote of the Council:
 - (1) *Admonition* – An admonition shall be a verbal non-public statement made by the Mayor to the individual.
 - (2) *Reprimand* – A reprimand shall be administered to the individual by letter. The letter shall be prepared by the City Council and shall be signed by the Mayor. If the individual objects to the content of such letter, he or she may file a request for review of the content of the letter of reprimand with the City Council. The City Council shall review the letter of reprimand in light of the advisory opinion and the request for review, and may take whatever action appears appropriate under the circumstances. The action of the City Council shall be final and not subject to further review.

- (3) *Censure* – A censure shall be a written statement administered personally to the individual. The individual shall appear at a time and place directed by the City Council to receive the censure. Notice shall be given at least twenty (20) days before the scheduled appearance at which time a copy of the proposed censure shall be provided to the individual. Within five (5) days of receipt of the notice, the individual may file a request for review of the content of the proposed censure with the City Council. Such a request will stay the administration of the censure. The City Council shall review the proposed censure in light of the advisory opinion and the request for review, and may take whatever action appears appropriate under the circumstances. The action of the City Council shall be final and not subject to further review. If no such request is received, the censure shall be administered at the time and place set. It shall be given publicly, and the individual shall not make any statement in support of or in opposition thereto or in mitigation thereof. A censure shall be deemed administered at the time it is scheduled whether or not the individual appears as required.
- (4) *Removal* – In the event the individual against whom the complaint has been filed is a member of a City Board, Commission, Committee, or other multi-member bodies appointed by the City Council, the City Council may, by a majority vote, remove the individual from such Board, Commission or Committee; provided, however, that nothing in this section authorizes the City Council to remove the Mayor and/or a Councilmember from his or her office. In the event the individual against whom the complaint has been filed is a Councilmember, the City Council, by a majority vote, may remove the individual from the position of Deputy Mayor and the Deputy Mayor may remove such individual from the position of Chairperson of any Council committee.

- 7.5 The Board of Ethics may also render written opinions concerning the applicability of the code of Ethics to hypothetical circumstances or situations upon the request of any person.
- 7.6 The City shall release copies of any written advisory opinions or opinions resulting from an investigation of a complaint and any written censures or reprimands issued by the City Council in response to public records requests as consistent with Chapter 42.17 RCW and any other applicable public disclosure laws.
- 7.7 The Mayor shall provide staff, as he or she deems appropriate, to assist the Board of Ethics.

- 7.8 Board members shall be reimbursed by the City for reasonable expenses incurred in its exercise of the official business of the Board, consistent with the expense reimbursement policies of the City.

Section 8 – Complaints Against Employees

Any and all complaints regarding City Employees shall be brought to the Employee's supervisor. The supervisor, or appropriate individual as determined by the Mayor, shall investigate the complaint. All action related to complaints about City Employees shall be in accordance with the Personnel Policy Manual.