

CITY OF LYNNWOOD

ORDINANCE NO. 2112

AN ORDINANCE OF THE CITY OF LYNNWOOD ESTABLISHING A CODE OF ETHICS AS IT PERTAINS TO PERSONAL GAIN OR PROFIT, CONFLICT OF INTEREST, ACCEPTANCE OF GIFTS, CAMPAIGN ACTIVITIES, AND CONFIDENTIAL INFORMATION FOR CITY OFFICIALS AND EMPLOYEES

WHEREAS, the proper operation of democratic government requires that public officers and employees be independent, impartial, and responsible to the people; that government decisions and policy be made within 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;

WHEREAS, in recognition of these goals, a code of ethics for all city officers and employees should be adopted. The purpose of this code is to establish guidelines for ethical standards of conduct for all such officers and employees by setting forth those acts or actions that are incompatible with the best interests of the City, by directing disclosure by such officers and employees of private financial or other interests in matters affecting the City, and by adopting rules to prevent conflicts of interests in public office, and to otherwise provide for ethical standards;

WHEREAS, Chapter 42.23 RCW - Code of Ethics for Municipal Officers - Contract Interests establishes ethical standards that the City desires to implement with specific guidelines, including guidelines that allows generally recognized acceptance of nominal gifts in certain situations; and

WHEREAS, the high ethical standards that apply to state officials and employees, pursuant to Chapter 42.52 RCW - Ethics in Public Service, are standards the City Council desires to make applicable to City employees and officials.

NOW, THEREFORE, the City Council of the City of Lynnwood do ordain as follows:

Section 1. The City Council hereby adopts and enacts the Code of Ethics as it Pertains to Personal Gain or Profit, Conflict of Interest, Acceptance of Gifts, Campaign Activities, and Confidential Information for City Officials and City Employees set forth on the attached Exhibit A which is incorporated by reference as if set forth in full.

Section 2. The administration shall codify the Code of Ethics as it Pertains to Personal Gain or Profit, Conflict of Interest, Acceptance of Gifts, Campaign Activities, and Confidential Information for City Officials and City Employees into a new Chapter 2.94 of the Lynnwood Municipal Code.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this Ordinance.

Section 4. Effective Date. This Code of Ethics as it Pertains to Personal Gain or Profit, Conflict of Interest, Acceptance of Gifts, Campaign Activities, and Confidential Information for City Officials and

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SECTION 1. POLICY

The City of Lynnwood 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 their private interest. Each Official and Employee is assumed and expected to act in accordance with all laws 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 and Official should be informed of this Code and meet its requirements. Questions regarding its interpretation concerning Employees and Officials should be brought to that person's Supervisor or Mayor for interpretations of this Code, and subject to any collective bargaining agreement, any action concerning violation of this Code concerning Officials and Employees shall be determined by the Mayor; PROVIDED questions regarding the interpretation of the Code as applied to Councilmembers, Mayor and allegations of violation of this Code by Councilmembers, Mayor, or Members of Advisory Bodies shall be referred to the Board of Ethics through the process established herein.

SECTION 2. DEFINITIONS

Throughout this Code, the following definitions shall apply:

2.1 Advisory Body

"Advisory body" means any Board or Commission, committee or other entity previously, or hereafter, and named a Board or Commission in the Ordinance or Resolutions creating the Body, created by the City Council to give advice on subjects and perform such other functions as prescribed by the City Council. Advisory Body does not mean task forces, informal committees, or working groups appointed by the Mayor or created by the City Council for short periods of time or for specific tasks.

2.2 Benefit, Gain, Profit, or Interest in a Contract

"Benefit," "gain," "profit," or "interest in a contract" applies only to situations or contracts involving business transactions, employment matters, and other financial interests, and does not apply to situations or contracts which confer no financial benefit.

2.3 City of Lynnwood Officials, Officers or Employees

"City official, officer, or employee" means every individual elected or appointed to an office or position of employment, whether such individual is paid or unpaid.

2.4 Confidential Information

"Confidential information" means:

- (a) specific information, rather than generalized knowledge, that is not available to the general public on request; or

- (b) information made confidential by law including but not limited to as provided in taxpayer information (RCW 82.32.330), information regarding organized crime (RCW 43.43.856), criminal history information (Chapter 10.97 RCW), medical records (Chapter 70.02 RCW) and juvenile records (RCW 13.50.010); or
- (c) information which is initially disclosed or discussed in executive session, and which is not available to the general public on request.
- (d) "Confidential information" does not include information officially disclosed by the Mayor or a majority vote of the City Council.

2.5 Contract

"Contract" shall include any contract, sale, lease, or purchase.

2.6 Contracting Party

"Contracting party" shall include any person, partnership, association, cooperative, corporation, or other business entity which is a party to a contract with a municipality.

2.7 Ethics

"Ethics" means standards of conduct that are regulated by this Code.

2.8 Family

"Family" means an individual's spouse, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half-brother, sister, or half-sister of the individual and the spouse of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half-brother, sister, or half-sister of the individual's spouse and the spouse of any such person.

2.9 Gift

"Gift" means anything of economic value for which no consideration is given. "Gift" does not include:

- (a) Items from family members or friends where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence in the City or with the recipient in connection with City matters;
- (b) Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;
- (c) Items exchanged among Officials and Employees or a social event hosted or sponsored by a City Officer or City Employee for coworkers;

- (d) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;
- (e) Items an Official or Employee is authorized by law to accept;
- (f) Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide nonprofit professional, educational, or trade association, or charitable institution. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;
- (g) Items returned by the recipient to the donor within thirty (30) days of receipt or donation to a charitable organization within thirty (30) days of receipt;
- (h) Campaign contributions or other items reported or regulated under Chapter 42.17 RCW;
- (i) Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group; and
- (j) Awards, prizes, scholarships, or other items provided in recognition of professional, academic or scientific achievement.

2.10 Person

"Person" means any individual, partnership, association, corporation, firm, institution, or other entity, whether or not operated for profit.

SECTION 3. PERSONAL GAIN OR PROFIT -USE OF PERSONS, MONEY OR PROPERTY

- 3.1 An Official or Employee shall not knowingly use his or her office or position for personal or family benefit gain or profit, or use his or her position to secure special privileges or exceptions for himself, herself, or for the benefit, gain, or profits of any other persons.
- 3.2 No Official or Employee may employ or use any person, money, or property under the Officer's or Employee's official control or direction, or in his or her official custody, for the personal or family benefit, gain, or profit of the Officer or Employee, or another.
- 3.3 This section does not prohibit the use of public resources to benefit others as part of a Officer's or Employee's public duties.

- 3.4 Notwithstanding the provisions of Section 3, the Mayor shall have discretion, and may adopt rules, regarding the nature, scope and extent to which the City of Lynnwood, its Officials and Employees, may provide in-kind and other assistance, if any, to an activity or event, provided that such assistance:
- (a) Does not unreasonably interfere with the proper performance of public duties and functions; and
 - (b) Provides a common benefit to the City; and
 - (c) Is of a de minimus cost, or of reasonable value.

Any terms, conditions, or mutual arrangements determined to be appropriate by the Mayor, regarding the provision of any type of assistance, shall be in writing.

SECTION 4. CONFLICT OF INTEREST

- 4.1 Except as provided in Section 4.3, an Official or Employee shall not be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such person, 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 from any other person beneficially interested therein, and 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 Official or Employee, or their families:
- (a) Influences the selection or non-selection of or the conduct of business between the City and any entity when the 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 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 Official or Employee.
 - (d) Accepts a gift in any manner other than as provided in Section 5 (Acceptance of Gifts) below.
 - (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 Official or Employee shall not be deemed to be interested in a contract if he or she has only a "remote interest" in the contract. "Remote Interest" means:
- (a) That of a nonsalaried officer of a nonprofit corporation;
 - (b) That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary;
 - (c) That of a landlord or tenant of a contracting party; and
 - (d) That of a holder of less than one percent of the shares of a corporation or cooperative which is a contracting party.
- 4.3 Section 4 shall not apply in the following cases:
- (1) The furnishing of electrical, water or other utility services by a municipality engaged in the business of furnishing such services, at the same rates and on the same terms as are available to the public generally;
 - (2) The designation of public depositaries for municipal funds;
 - (3) The publication of legal notices required by law to be published by any municipality, upon competitive bidding or at rates not higher than prescribed by law for members of the general public;
 - (4) The employment of any person for unskilled day labor at wages not exceeding one hundred dollars (\$100) in any calendar month;
 - (5) The letting of any other contract (except a sale or lease as seller or lessor); PROVIDED, That the total volume of business represented by such contract or contracts in which a particular officer is interested, singly or in the aggregate, as measured by the dollar amount of the municipality's liability thereunder, shall not exceed nine thousand dollars (\$9,000) in any calendar year; PROVIDED FURTHER, That there shall be public disclosure by having an available list of such purchases or contracts, and if the supplier or contractor is an Official of the municipality, he or she shall not vote on the authorization.
- 4.4 A Councilmember shall disclose the fact and extent of a remote interest for the official minutes of the City Council prior to taking any action related to the interest and, thereafter, 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.

4.5 Restrictions After Leaving City

- (a) For one (1) year after leaving the City, a former Official or Employee may not hold or acquire a financial interest, direct or indirect, personally or through their family, in any contract or contracts having a total value of more than Five Thousand Dollars (\$5,000) 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, a former Official or Employee may not 1) assist anyone in proceedings involving the City where such Official or Employee worked on a matter in which they were officially involved in the course of their duties; 2) represent any private person as an advocate on a matter in which they were involved; or 3) compete for a City contract when they were involved in determining the scope of work or the selection process.
- (c) An Official or 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 for charitable contributions or campaign contributions required to be reported under Chapter 42.17 RCW, an Official or Employee may not accept gifts of cash in any amount that has any connection whatsoever with City employment or the performance of duties.
- 5.2 Except as provided in Section 5.5, an Official or Employee may not, directly or indirectly, give or receive or agree to receive, or ask for any compensation, gift, reward, or gratuity from a source for performing or omitting or deferring the performance of any official duty, except from the City.
- 5.3 Except as provided in Section 5.5, any and all gifts received by a City Employee will be given immediately to the Employee's supervisor with an explanation of the circumstances surrounding receipt of the gift. The supervisor or department head will return the gift to the sender with a written expression of thanks and an explanation of the City policy concerning gifts. A copy of the memo shall be sent to the Mayor.
- 5.4 Except as provided in Section 5.5, any and all gifts received by an Official will be returned immediately to the sender, with a written expression of thanks and an explanation of the City policy concerning gifts. A copy of the memo shall be sent to the Mayor, or placed with the Mayor's records.
- 5.5
 - (a) An Officer or Employee may accept an item or cash if it is regulated or reported under Chapter 42.17 RCW.
 - (b) No Officer or Employee may accept gifts with an aggregate value in excess of fifty dollars (\$50) from a single source in a calendar year or a single gift from

multiple sources with a value in excess of fifty dollars (\$50), and only if it could be reasonably expected that the gift, gratuity, or favor would not influence the vote, action, or judgment of the Officer or Employee, or be considered as part of a reward for action or inaction. For purposes of this section, "single source" means any person, corporation, or entity, whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift under Section 2. The value of gifts given to an Officer's or Employee's family member shall be attributed to the Official or Employee for the purposes of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member.

- (c) The following are presumed not to influence the vote, action, or judgment of the Official or Employee, or be considered as part of a reward for action or inaction, so as to allow an Official or Employee to receive or accept them:
- (1) Unsolicited advertising or promotional items of nominal value, such as pens and note pads. Employees should endeavor to use such items in the workplace instead of taking them home.
 - (2) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item.
 - (3) Unsolicited items received for the purpose of evaluation or review, if the recipient has no personal beneficial interest in the eventual use or acquisition of the item.
 - (4) Informational material, publications, or subscriptions related to the recipient's performance of official duties.
 - (5) Food and beverages consumed at hosted receptions where attendance is related to the recipient's official duties.
 - (6) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization.
 - (7) Those items excluded from the definition of gift in Section 2.7.
 - (8) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity.
 - (9) Payments for seminars and educational programs sponsored by a bona fide nonprofit professional, educational, or trade association, or charitable institution.

- (10) Flowers, plants, and floral arrangements. The Employee receiving the gift shall (1) notify the Employee's supervisor of the gift, (2) take the item to a recognized relief agency, or alternatively, make the items available for the enjoyment of all Employees in the Employee's work area, and (3) send a thank-you card to the provider explaining what was done with the gift.
- (11) Food and beverages on infrequent occasions in the ordinary course of meals where attendance is related to the performance of official duties.

The presumption in this subsection is rebuttable and may be overcome by clear and convincing evidence based on the circumstances surrounding the giving and acceptance of the item.

5.6 This section shall not apply to gifts made to the City. All such gifts shall be given to the Mayor for official disposition.

SECTION 6. CAMPAIGN ACTIVITIES

- 6.1 Officials and Employees may participate in the political process only on their own time, and only outside of the workplace by assisting a campaign for the elections of any person to any office, or for the promotion of or the opposition to any ballot proposition.
- 6.2 Officials and Employees shall not use or authorize the use of the facilities or resources of the City for the purpose of assisting a campaign for the election of any person to any office, or for the promotion or opposition to any ballot proposition, except as may be authorized by law under the provisions of Chapter 42.17.130 RCW.
- 6.3 This section does not prohibit any activity permitted or regulated under Chapter 42.17 RCW.

SECTION 7. CONFIDENTIAL INFORMATION

- 7.1 No Official or Employee may accept employment or engage in any business or professional activity that the Official or Employee might reasonably expect would require or induce him or her to disclose confidential information acquired by the official or employee by reason of the Official's or Employee's official position.
- 7.2 No Official or Employee may disclose confidential information gained by reason of the Officer's or Employee's official position or otherwise use the information for his or her personal gain or benefit or the gain or benefit of another, unless the disclosure has been authorized by the Mayor (or majority vote of the City Council) or by terms of a contract involving (a) the City and (b) the person or persons who have authority to waive confidentiality of the information.
- 7.3 An Official or Employee shall not use information acquired in confidence from a City customer, supplier, lessee or contractor for other than City purposes.

- 7.4 This section does not present an Official or Employee from giving testimony under oath or from making statements required to be made under penalty of perjury or contempt.
- 7.5 The Mayor shall determine, acting in the best interest of the City, whether information is confidential provided a majority of the City Council may vote to release any information which is not by law required to be kept confidential. The types of information listed in RCW 42.17.310 are presumed confidential, unless the Mayor (or City Council by majority vote) determines it is not.

In any matter involving an advisory body, the presiding officer shall determine, acting in the best interests of the City, whether information is confidential, subject to approval by the Mayor or City Council by majority vote.

In any matter involving City Employees, the higher ranking person shall determine, acting in the best interests of the City, whether information is confidential, subject to approval by the Mayor. For example, a Department Head, meeting with Employee B to discuss Employee C's job performance, may determine that information discussed is confidential.

SECTION 8. BOARD OF ETHICS - COMPLAINTS AGAINST A COUNCILMEMBER OR MAYOR - ADVISORY OPINIONS

8.1 (a) Board Created

There is created and established a Board of Ethics for the City of Lynnwood.

(b) Purpose and Duties

The purpose of this Board of Ethics is to issue advisory written opinions on the provisions of this Code and to investigate and issue written reports to the City Council on any alleged violations of this Code by the Mayor, Councilmembers, a member of a Board or Commission, all as set forth below.

(c) Membership Appointment - Term

The Board of Ethics shall be composed of three (3) members, none of whom shall be a City Councilmember or City Employee.

The Board members shall be appointed by the Mayor with the approval of the City Council, for a term (except the original term) of three (3) years (or for fulfillment of an unexpired term). The original appointees shall serve for terms as follows:

Position No. 1:	Until January 1, 1998
Position No. 2:	Until January 1, 1999
Position No. 3:	Until January 1, 2000

Any person may be removed from the Board by the Mayor, with the approval of the Council.

In filling any vacancy or making an appointment to the Board of Ethics, the Mayor 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.

(d) Officers and Procedures

The Board shall elect from its membership a presiding officer who shall be referred to as a chairman, chairwoman, or chairperson, as may be appropriate, who shall serve for one year. The Board may elect other officers as the Board deems necessary. The Board shall provide a manner for minutes and records of all meetings to be kept. The Board shall adopt rules of procedure; provided, a majority of the Board shall constitute a quorum for the transaction of business, and a majority of the quorum at attendance at any meeting shall be necessary to carry any proposition.

(e) Meetings

A meeting of the Board shall be held as the Board deems necessary and advisable on seventy-two (72) hours notice to all members, or otherwise as agreed by the Board.

(f) Unavailability of Board Members

In addition to the members of the Board, the Mayor shall appoint with the approval of the Council a first and second alternate member. The alternate may attend open meetings of the Board, but shall have no voting rights except as provided herein.

In the event a Board member must recuse himself or herself or otherwise is unavailable to conduct Board business, the first alternate member shall serve in his or her place. If a second alternative is required, the second alternative shall then serve.

(g) Staff

The Mayor shall provide staff, as he or she deems appropriate, to assist the Board of Ethics. The Board may make request for staff to the Mayor and/or City Council.

8.2 Specific Complaint Against The Mayor, a Councilmember, or a Member of a Board or Commission

- (a) Any person may submit a written complaint to the Finance Director alleging one (1) or more violations of this Code by the Mayor, a Councilmember, or a Member of a Board or Commission. 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 under penalty of perjury 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. The Finance Director shall promptly serve or mail, return receipt requested, a copy of the complaint to the individual complained against.
- (b) The Finance Director 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 of a violation of a specific 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 twenty-one (21) calendar days after it commences the investigation; unless a longer time period have been requested by the Board and approved by the City 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 issued or denied by the City Council or until such times 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.
- (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 City Council 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 City Council determines the subpoena request is reasonable. 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 report 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 report shall be delivered to the City Council, person complained against, and the complaining party within seven (7) calendar days of conclusion of the investigation, unless a longer time period has been requested by the person complained against, and has been approved by the Board or unless a longer time period has been requested by the Board and has been approved by the City Council.
- (h) In the event the written report provides that the individual against whom the complaint has been filed has violated the Code and the City Councilmembers adopt this report 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 report 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 Mayor with the approval of 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 a Councilmember or the Mayor from his or her office.
 - (i) Proceedings by the Board when they relate to action involving an person shall be made in executive session, however, upon request of the person involved, the proceeding shall be open to the public. The complaint, the determination of sufficiency or no sufficiency, and written report of the Board shall be considered public records.
 - (j) Action by the City Council shall be by majority vote. If the proceeding involves a member of the City Council, the member does not vote on any matter involving the member. As provided in RCW 35A.12.100, the Mayor shall vote in the case of a tie, except if the action is against the Mayor. Action by the Council may be in executive session, however, upon request of the person complained against, the meeting shall be open to the public.

8.3 Advisory Opinions

- (a) Upon request of any employee the Mayor or a member of the City Council, or any Official the Board of Ethics may also render written advisory opinions concerning the applicability of the Code to hypothetical circumstances and/or situations solely related to the persons making the request.
- (b) Upon request of the Mayor, or two (2) members of the City Council, the Board of Ethics may also render written advisory opinions concerning the applicability of the Code to hypothetical circumstances and/or situations related to a matter of City-wide interest or policy.

8.4 The City shall release copies of any written reports 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.

SECTION 9. COMPLAINTS AGAINST EMPLOYEES AND OFFICIALS OTHER THAN THE MAYOR, COUNCILMEMBERS, AND MEMBERS OF ADVISORY BODIES

Any and all complaints regarding City Employees and Officials, except for the Mayor, Councilmembers, and Members of Advisory Bodies shall be brought to the Employee's supervisor, or Mayor. The supervisor, or appropriate individual as determined by the Mayor, shall investigate the complaint and recommend to the Mayor appropriate action. Any action shall be determined by the Mayor, and a report thereof shall be made to the City Council in executive session.

SECTION 10. LIBERAL CONSTRUCTION - LIMITATION PERIOD - EFFECTIVE DATE

- 10.1 This Code shall be liberally construed to effectuate its purpose and policy and to supplement existing laws that relate to the same subject.
- 10.2 Any action taken under this Code must be commenced within three (3) years from the date of violation.
- 10.3 This Code shall take effect March 1, 1997.