

37. Discuss and Consider Directing the City Manager, City Attorney, and City Clerk to Prepare an Ordinance Prohibiting Contracts with City Officials and their Immediate Family Members – Councilmember Lopez



CITY OF SANTA ANA

Councilmember-Requested Item Report

DATE

November 19, 2024

TOPIC

Proposal for Policy on Prohibiting Contracts with City Officials and Immediate Family Members

COUNCILMEMBER-REQUESTED ITEM TITLE

Discuss and Consider Directing the City Manager, City Attorney, and City Clerk to Prepare an Ordinance Prohibiting Contracts with City Officials and their Immediate Family Members

DISCUSSION

I am writing to propose a policy, to be prepared by staff as an ordinance for City Council consideration, that expressly prohibits the City of Santa Ana from awarding any agreement or contract to any City official, including councilmembers and members of boards and commissions, as well as to members of their immediate family. This policy recommendation is grounded in California Government Code Section 1090 and the California Political Reform Act, which aim to prevent conflicts of interest in public contracting. The proposed policy would also reinforce the ethical principles outlined in the City of Santa Ana's Code of Ethics and Conduct.

The City of Santa Ana is dedicated to promoting transparency, fairness, and ethical practices in its contracting processes. While the City already adheres to a high standard of ethics, additional safeguards are necessary to prevent any potential conflicts of interest that may arise from City officials or their immediate family members being financially interested in City contracts.

Relevant Legal Framework

The proposed policy to prohibit City officials and their immediate family members from engaging in contracts with the City is grounded in well-established legal frameworks aimed at ensuring ethical governance and preventing conflicts of interest. These laws provide a robust foundation for maintaining transparency, fairness, and accountability in public contracting processes. The following is an overview of the key legal provisions that support this policy.

CITY ATTORNEY
Sonia R. Carvalho

CITY MANAGER
Alvaro Nuñez

CITY CLERK
Jennifer L. Hall

Proposal for Policy on Prohibiting Contracts with City Officials and Immediate Family Members

October 15, 2024

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Government Code Section 1090

Prohibits public officials from being financially interested in contracts made by them in their official capacity. This law aims to prevent public officials from using their positions for personal financial gain and ensures the integrity of public contracting.

California Political Reform Act

Requires public officials to disclose their financial interests and prohibits them from making, participating in, or attempting to influence governmental decisions in which they have a financial interest.

City of Santa Ana Code of Ethics and Conduct

As outlined in the City's Code of Ethics and Conduct, public officials must maintain the highest standards of integrity and fairness. This includes excusing themselves from participating in decisions that may affect their financial interests or those of their immediate family members.

Proposed Policy Recommendations

To ensure the integrity of the City of Santa Ana's contracting processes and to prevent potential conflicts of interest, the following policy recommendations are proposed. These measures are designed to prohibit City officials and their immediate family members from engaging in contracts with the City, while promoting transparency, fairness, and accountability.

Prohibition on Contracts with City Officials

City officials, including councilmembers and members of boards and commissions, shall be prohibited from entering into any contract or agreement with the City of Santa Ana, either directly or indirectly, during their term of service.

Immediate Family Prohibition

The policy should extend to immediate family members of City officials. This includes spouses, domestic partners, dependent children, and any other family members who may benefit from City contracts.

Mandatory Disclosure and Recusal

City officials must disclose any financial interest they or their immediate family members may have in a business or organization that seeks to enter into a contract with the City. In such cases, the official must recuse themselves from any discussions, negotiations, or votes related to the contract.

Transparency and Public Reporting

All contracts awarded by the City shall be publicly disclosed, and any potential conflicts of interest should be reviewed by an independent ethics body. This ensures that the public remains informed about the City's contracting processes.

Implementation Measures

1. Prepare the Ordinance

The City Attorney's Office should be tasked with drafting the ordinance that incorporates these prohibitions and safeguards. This will ensure that the policy aligns with existing state and local laws.

To assist the City Attorney's Office with this task, attached are three similar policies from California cities, each of which prohibit awarding contracts to City officials:

- City of Los Angeles: The city has strict ethics rules under its [Governmental Ethics Ordinance](#) that prohibit city officials, including members of boards and commissions, from benefiting from city contracts. The Los Angeles City Charter (Section 371) prohibits city officers and employees from having any interest in contracts with the city. (Exhibit 1)
- City and County of San Francisco: The [San Francisco Campaign and Governmental Conduct Code](#) also restricts city officers, including members of boards and commissions, from entering into contracts with the city. This is intended to prevent conflicts of interest and ensure transparency in government. (Exhibit 2)
- City of San Diego: The [San Diego Municipal Code](#) contains rules that restrict city officials, including commission members, from having a financial interest in city contracts. These restrictions align with California's broader conflict-of-interest laws. (Exhibit 3)

2. Create an Independent Ethics Review

An independent ethics committee/commission, whether a standing body or ad hoc committee, should be utilized to review any potential conflicts of interest and ensure compliance with the policy. This committee would have the authority to investigate and recommend actions in cases where violations are suspected.

Conclusion

Implementing this policy would further strengthen public confidence in the integrity of Santa Ana's contracting processes. By aligning with Government Code Section 1090, the Political Reform Act, and the City's Code of Ethics and Conduct, Santa Ana will continue to demonstrate its commitment to ethical governance and the responsible use of taxpayer dollars.

SUBMITTED BY

Councilmember Jessie Lopez

Governmental Ethics Ordinance

Los Angeles Municipal Code §§ 49.5.1 *et seq.*

Effective January 23, 2020

Los Angeles City
ETHICS COMMISSION

200 North Spring Street, 24th Floor
Los Angeles, CA 90012
(213) 978-1960
ethics.lacity.org

**Governmental Ethics Ordinance
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Governmental Ethics Ordinance

Los Angeles Municipal Code Chapter IV, Article 9.5

Added by Ordinance No.165618, effective 4/21/90.

Amended in its entirety by Ordinance No.182842, effective 2/10/14.

SEC. 49.5.1. TITLE, FINDINGS AND PURPOSE.

A. Title. This Article shall be known as the City of Los Angeles Governmental Ethics Ordinance.

B. Findings. The following findings are adopted in conjunction with the enactment of this Article:

1. As one of the great international cities of the world, Los Angeles will continue to confront great and complex opportunities and problems of both local and global significance.
2. One of the best ways to attract talented people to public service is to assure that the government is respected for its honesty and integrity; that its decisions are made on the merits, untainted by any consideration of private gain; and that the rules governing their conduct during and after leaving government service are as clear and complete as possible.
3. A governmental ethics ordinance that is as clear, tough, fair, comprehensive and effective as any in the nation is therefore needed.

C. Purposes. This Article is adopted to accomplish the following purposes:

1. To assure that individuals and interest groups in our society have a fair and equal opportunity to participate in the governmental process.
2. To assure that the governmental process itself promotes fairness and equity for all residents of the City regardless of race, color, creed, religion, national origin, age, sex, marital status, sexual orientation or disability.
3. To require elected City officers and key City officials to disclose investments, interests in real property and income in order to prevent conflicts of interests.
4. To prevent elected City officers and key City officials from receiving outside earned income that creates a potential conflict of interests.
5. To prevent City officials from lobbying the City for certain periods of time after they leave City service.
6. To increase understanding of the City Charter and ordinances, the roles of elected City officers and other public officials, the roles of City agencies, and the City election process.
7. To help restore public trust in governmental and electoral institutions.

8. To assure that this Article is vigorously enforced.

SEC. 49.5.2. DEFINITIONS.

The following terms have the meanings identified below. Other terms used in this Article have the meanings identified in the state's Political Reform Act.

- A. "Agency"** means the City of Los Angeles or any City department, bureau, office, board, commission, or entity required to adopt a conflict of interests code subject to City Council approval. With respect to employees of a City Council member's staff and employees of the Chief Legislative Analyst's office, "agency" means the City Council. The term does not include a governmental entity that is not within the City's control, even if the entity is required to adopt a conflict of interests code subject to City Council approval, unless the entity elects to be subject to this Article.
- B. "Bidder"** means a person who bids on or submits a proposal or other response to a City contract solicitation including a request for proposals, request for bids, request for qualifications, or any other request for purposes of entering into a contract.
- C. "City official"** means an elected City officer or an agency board member, officer, employee, commissioner, or consultant who, because of the individual's service to an agency, is required to file a statement of economic interests pursuant to the Political Reform Act.
- D. "Confidential information"** means information that, if it were contained in a document, would not be subject to disclosure under the state's Public Records Act.
- E. "Contract"** means an agreement, lease, right of entry, franchise, or concession, including but not limited to an agreement for the performance of work, the rendition of service, or the provision of materials, equipment, or supplies to the City or the public, which is let, awarded, or entered into with or on behalf of an agency.
- F. "Elected City officer"** means a person who is a City Council member, City Attorney, Controller, or Mayor, whether appointed or elected.
- G. "Matter pending"** means a matter in which a non-ministerial action is required to proceed with or resolve the matter but has not yet been taken.
- H. "Political activity"** means activity directed at the success or failure of any ballot measure or candidate for elective office in a future election and includes but is not limited to: endorsing a candidate; engaging in fundraising; developing, displaying, or distributing campaign materials; conducting research; or posting comments on social media or other Internet sites.
- I. "Political Reform Act"** means the California Political Reform Act of 1974 (California Government Code Sections 81000 et seq.) and the related regulations of the California Fair Political Practices Commission as amended from time to time.
- J. "Restricted source"** means the following:
1. For elected City officers, a restricted source is the following:
 - a. A person who files as a lobbying firm or lobbyist or is required to file as a lobbying firm or lobbyist, as defined in Section 48.02.

- b. A person who has entered into, performs under, or seeks a contract with the City. This does not include the following:
 - i. An individual who has entered into or performs under an agreement with the City regarding employment; or
 - ii. A person who receives or pays for services normally rendered by the City to residents and businesses, such as sewer service, water and power service, or street maintenance.
 - c. A person who, during the prior 12 months, attempted to influence the elected City officer in any City action that would have a material financial effect on the person. This does not include an individual who attempted to influence action regarding that individual's own City compensation, benefits, or retirement.
 - d. A person who is or in the prior 12 months was a party to a proceeding involving a license, permit, or other entitlement for use that was pending before the elected City officer, the City Council, or a board, commission, committee, or other similar body of which the elected City officer is a voting member.
 - e. A person who is an applicant, owner, or principal under Section 49.7.37.
2. For all other City officials, a restricted source is the following:
- a. A person who seeks to influence decisions of the City official's agency and files as a lobbying firm or lobbyist, or is required to file as a lobbying firm or lobbyist as defined in Section 48.02;
 - b. A person who has entered into, performs under, or seeks a contract with the City official's agency. This does not include the following:
 - i. An individual who has entered into or performs under an agreement with the City official's agency regarding employment; or
 - ii. A person who receives or pays for services normally rendered by the City to residents and businesses, such as sewer service, water and power service, or street maintenance.
 - c. A person who, during the prior 12 months, attempted to influence the official in any City action that would have a material financial effect on the person. This does not include an individual who attempted to influence action regarding that individual's own City compensation, benefits, or retirement.
 - d. A person who is or in the prior 12 months was a party to a proceeding involving a license, permit, or other entitlement for use that was pending before the official or before a board, commission, committee, or other similar body of which the official is a voting member.

History:

*Amended by Ord. 167949, effective 7/5/92.
Amended by Ord. 168056, effective 8/8/92.
Amended by Ord. 170655, effective 9/21/95.
Amended by Ord. 172891, effective 12/11/99.
Amended by Ord. 173363, effective 7/29/00.
Amended by Ord. 176824, effective 8/27/05.
Amended by Ord. 182842, effective 2/10/14.
Amended by Ord. 186477, effective 1/23/20.*

SEC. 49.5.3. CONFIDENTIAL INFORMATION.

A current or former City official or agency employee shall not misuse or disclose confidential information acquired as a result of City service.

History:

Amended by Ord. 182842, effective 2/10/14.

SEC. 49.5.4. PROTECTION AGAINST RETALIATION.

- A.** City officials and agency employees shall not use or threaten to use any official authority or influence to discourage, restrain, or interfere with another person's attempt to report possible violations of law to the Ethics Commission or another governmental entity.
- B.** City officials and agency employees shall not use or threaten to use any official authority or influence to effect any action as a reprisal against another person who reports a possible violation of law to the Ethics Commission or another governmental entity.
- C.** A person who believes that he or she has been subjected to an action prohibited by this Section may file a confidential complaint with the Ethics Commission.
- D.** The Ethics Commission may refer retaliation complaints to appropriate agencies for disciplinary purposes.

History:

*Amended by Ord. 168708, effective 5/13/93.
Amended by Ord. 182842, effective 2/10/14.*

SEC. 49.5.5. MISUSE OF CITY POSITION OR RESOURCES.

- A.** City officials, agency employees, appointees awaiting confirmation by the City Council, and candidates for elected City office shall not misuse or attempt to misuse their positions or prospective positions to create or attempt to create a private advantage or disadvantage, financial or otherwise, for any person.
- B.** City officials and agency employees shall not engage in political activity in the following scenarios:
 - 1. While on duty for the City.
 - 2. In any manner that implies the City official or agency employee is speaking on behalf of the City or communicating a City position. This may include but is not limited to engaging in political activity in the following scenarios:
 - a. While wearing a uniform or official City insignia; or
 - b. Using a City title or position.
 - 3. In a room or building that is owned by the City or primarily paid for or used by the City and occupied by a City official or agency employee in the discharge of City duties. This does not include a City room or building that is available to the public for organized campaign activities as long as the City official or agency employee does not use the room or building during the official's or employee's City working hours and does not use other City resources for the activity.

4. Using City equipment, vehicle, supplies, or resources, including but not limited to mailing and distribution lists, electronic mail, and electronic data.
- C.** A person shall not induce or coerce or attempt to induce or coerce another person to engage in activity prohibited by Subsections A or B.
- D.** This Section does not prohibit the use of City resources to provide information to the public about the possible effects of a bond issue or ballot measure relating to City activities, operations, or policies when the use of public resources is otherwise legally authorized.

History:

Amended by Ord. 172891, effective 12/11/99.

Amended by Ord. 182842, effective 2/10/14.

SEC. 49.5.6. CONFLICTS OF INTERESTS.

- A.** City officials shall not make, participate in making, or attempt to use their official positions to influence City decisions in which they know or have reason to know they have a financial interest.
- B.** In the first 12 months of City service, a City official or agency employee shall not knowingly make, participate in making, or attempt to use his or her official position to influence a City decision directly relating to a contract when a party to the contract is a person by whom the individual was employed in the 12 months immediately prior to entering City service.
- C.** Statements of City-Related Business.
1. An elected City officer, a candidate for elected City office, a member of a City board or commission, a general

manager or chief administrative officer of an agency, and an individual holding an appointive office named in the Charter shall file a statement of City-related business with the Ethics Commission within ten calendar days after a City action, other than a ministerial action, affects the individual's personal financial interests.

2. For purposes of the statement, a City action affects an individual's personal financial interests if it involves one or more of the following held by, required of, or sought by the individual, the individual's spouse or registered domestic partner, or a business entity in which either the individual or the individual's spouse or registered domestic partner holds an ownership interest of five percent or more:
 - a. The sale of real or personal property; or
 - b. The performance of services pursuant to a contract; or
 - c. A grant, loan, or forgiveness or payment of indebtedness; or
 - d. An application for a license, certificate, permit, franchise, change of zone, variance, credential, or other benefit or relief.
3. The statement shall be in sufficient detail as to dates, amounts, identifying numbers or symbols, locations, and subject matter to make the action identifiable by reference to City records.

4. The statement shall be filed under penalty of perjury in a method prescribed by the Ethics Commission.
5. The statement shall satisfy the requirements of Section 304 of the City Election Code.

D. Recusal Notification.

1. A member of a City board or commission who is required to file a statement of economic interests pursuant to the Political Reform Act shall file a recusal notification form each time the member recuses himself or herself in relation to an actual or apparent conflict of interests.
 - a. The member shall file a copy of the completed form with the executive secretary for the commission or board (or the person acting in that capacity) as soon as possible after the posting of the agenda containing the item involving the member's conflict of interests.
 - b. The member shall file the original form, along with a copy of the meeting agenda containing the item involving the conflict of interests, with the Ethics Commission within 15 calendar days after the date of the meeting at which the recusal occurred.
 - c. The member shall file the form even if the member is not present at the meeting.
2. The form shall be filed under penalty of perjury in a method prescribed by the Ethics Commission and shall include, at a minimum, the following:

- a. The member's name;
- b. The name of the member's board or commission;
- c. The date of the meeting at which the recusal occurred or would have occurred;
- d. The agenda item number, a brief description of the matter, and a statement of whether the matter concerns the making of a contract; and
- e. The specific interest causing the recusal and a statement of whether the interest is financial.

- E. Every agency shall make every effort to avoid hiring or appointing City officials who hold and are unwilling or unable to sell assets that would present significant and continuing conflicts of interests.

History:

*Amended by Ord. 167949, effective 7/5/92.
 Amended by Ord. 175344, effective 8/16/03.
 Amended by Ord. 177190, effective 1/23/06.
 Amended by Ord. 177853, effective 10/7/06.
 Amended by Ord. 182842, effective 2/10/14.*

SEC. 49.5.7. HONORARIA AND OUTSIDE EMPLOYMENT.

- A. City officials and agency employees shall not engage in outside employment during any hours they are paid to engage in City business. A person shall not induce or coerce or attempt to induce or coerce a City official or agency employee to engage in such outside employment.

- B.** Elected City officers shall not receive any payment, including honoraria, for their services other than that provided for by City Charter Section 218. However, they may receive compensation for serving on governmental entities where payment is authorized for other governmental officers or employees serving in such capacity.
- C.** City officials, other than elected City officers and part-time board and commission members, shall not accept a payment for honoraria or other outside earned income or employment without prior written approval.
1. Prior written approval must first be obtained from the general manager or chief administrative officer of the City official's department.
 - a. General managers, chief administrative officers, and members of the Board of Public Works must obtain prior written approval from their appointing authorities.
 - b. City Council staff members must obtain prior written approval from their City Council members.
 - c. A City official who does not have an appointing authority must obtain prior written approval from the Ethics Commission.
 2. If the general manager, chief administrative officer, or appointing authority approves the payment, the City official must determine whether the source is a restricted source for the City official. If the source is a restricted source, the City official shall not accept the payment without also obtaining prior written approval from the Ethics Commission.
 3. The approval required by Subdivisions 1 and 2 shall be denied if the general manager, chief administrative officer, appointing authority, or Ethics Commission determines that receipt of the payment would be inconsistent, incompatible, in conflict with, or inimical to the City official's official duties, functions, or responsibilities. Such a determination must be made if one or more of the following factors applies:
 - a. The payment or the services for which the payment would be received would involve any of the following:
 - i. The actual use of or the appearance of the use of public office, employment, time, facilities, equipment, or supplies for private gain;
 - ii. The City official's performance of an act that could later be subject to the control, inspection, review, audit, or enforcement of the City official's agency; or
 - iii. Such time demands that the City official's performance of official City duties would be rendered less efficient.
 - b. The City official would be accepting payment from a person other than the City official's agency for performing an act that the City official would be required or expected to render in the regular course of performing City duties.
 - c. The City official is in a position to make, participate in making, or influence a City decision that

could foreseeably have a material financial effect on the source of the payment.

4. A request for approval from the Ethics Commission shall be treated as a request for written advice under Charter Section 705(b).

History:

Amended by Ord. 168056, effective 8/8/92.

Amended by Ord. 172942, effective 1/21/00.

Amended by Ord. 182842, effective 2/10/14.

Renumbered by Ord. 182842, effective 2/10/14 (prev. 49.5.9).

SEC. 49.5.8. GIFTS.

- A.** A person shall not offer or make and a City official shall not solicit or accept a gift when it is reasonably foreseeable that the City official could be influenced by the gift in the performance of an official act.
- B.** City officials shall comply with the gift requirements and restrictions in the Political Reform Act and California Constitution. When the Political Reform Act's gift provisions, other than gift limits, refer to a lobbying entity, the reference shall include a City lobbying firm and lobbyist.
- C.** In addition to the state requirements and restrictions identified in Subsection B, City officials shall also comply with the following gift restrictions for restricted sources.
 1. A City official shall not solicit a gift from a restricted source. A City official shall not accept a gift that exceeds the applicable gift limit from a restricted source.
 2. A person who is a restricted source to a City official shall not offer or make a gift that exceeds the applicable gift limit to that City official.

3. A restricted source shall not act as an agent or intermediary in or arrange for the making of a gift by another person to a City official that exceeds the applicable gift limit.
4. The applicable gift limits are as follows:
 - a. For restricted sources identified in Section 49.5.2(J)(1)(a) or Section 49.5.2(J)(2)(a), the applicable gift limit is zero.
 - b. For all other restricted sources, the applicable gift limit is one-hundred dollars (\$100) per calendar year.
5. The applicable gift limits for restricted sources do not apply to the following:
 - a. Items received by a City official from a union representing that City official.
 - b. Food and beverages received by a City official from a union representing a bargaining unit of City officials.
 - c. Items received by a City official acting in an official City capacity from an organization to which the City, the City official, or the City official's agency belongs as a member.
 - d. Nominal and routine office courtesies received by a City official in a restricted source's place of business, as long as the courtesies are available to any person who visits that place of business.

- e. Payments for travel and meals that are made by an organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, a bona fide educational institution as defined by Section 203 of the California Revenue and Taxation Code, or a governmental entity and where the payments are exempt from the gift limits in the Political Reform Act.
6. A City official has the duty to determine whether a person is a restricted source to him or her. A person offering or making a gift to a City official has the duty to determine whether he or she is a restricted source to that City official.
- a. For restricted sources identified in Sections 49.5.2(J)(1)(a) and 49.5.2(J)(2)(a), the following apply:
 - i. A City official may presume that a person is not a restricted source to him or her if the person is not identified in the electronic filing system for lobbying entities under Section 48.06(B) on the date the gift is offered or made, the City official has conducted a reasonable inquiry into whether the person is a restricted source between database updates, and the City official does not have personal knowledge that the person qualifies as a restricted source.
 - b. For restricted sources identified in Sections 49.5.2(J)(1)(b) and 49.5.2(J)(2)(b), the following apply:
 - i. A City official may presume that a person is not a restricted source to him or her if the person is not identified in the database in Section 49.5.11(B) on the date the gift is offered or made, the City official has conducted a reasonable inquiry into whether the person is a restricted source between database updates, and the City official does not have personal knowledge that the person qualifies as a restricted source.
 - ii. The restricted source gift limit does not apply to sources that are only identified in Section 49.5.2(J)(1)(b) or Section 49.5.2(J)(2)(b) until the Ethics Commission and the City Council initially certify that the database in Section 49.5.11(B) provides enough information for a City official to determine whether a person is a restricted source to him or her under Section 49.5.2(J)(1)(b) or 49.5.2(J)(2)(b).

iii. The database is a reference for compliance and enforcement purposes for gifts offered or made from the date the database is certified through the date the database was last updated.

c. For restricted sources identified in Sections 49.5.2(J)(1)(c), 49.5.2(J)(1)(d), 49.5.2(J)(2)(c), and 49.5.2(J)(2)(d), the following apply:

i. A City official may presume that a person is not a restricted source to him or her if the City official has conducted a reasonable inquiry into whether the person is a restricted source and does not have personal knowledge that the person qualifies as a restricted source.

ii. The Ethics Commission will not maintain a database.

d. A reasonable inquiry includes asking the source, asking a responsible employee in the relevant agency, and reviewing the City Clerk's council file management system.

D. A ticket or pass distributed by an agency to a City official in accordance with Chapter 5 of Los Angeles Administrative Code Division 24 is not a gift to the City official.

History:

Amended by Ord. 168056, effective 8/8/92.

Amended by Ord. 178064, effective 1/15/07.

Amended by Ord. 182842, effective 2/10/14.

Renumbered by Ord. 182842, effective 2/10/14 (prev. 49.5.10).

Amended by Ord. 183731, effective 8/4/15.

SEC. 49.5.9. DISCLOSURE OF ECONOMIC INTERESTS.

A. A City official shall file a statement of economic interests pursuant to the Political Reform Act and this Section.

B. Whenever an elected City officer, a member of a City board or commission, or a general manager or chief administrative officer of an agency is required by the Political Reform Act to file a statement of economic interests, the individual also shall disclose financial interests associated with restricted sources.

1. The following financial interests shall be disclosed:

a. Interests in real property that were leased from or to, co-owned by, purchased from, or sold to a restricted source by the City official or the City official's spouse, registered domestic partner, or dependent child.

b. Investments that were co-owned by, purchased from, or sold to a restricted source by the City official or the City official's spouse, registered domestic partner, or dependent child.

c. Income other than gifts that was valued at \$500 or more and was received from a restricted source by the City official or the City official's spouse, registered domestic partner, or dependent child.

d. Gifts cumulatively valued at \$50 or more and that were received from a restricted source by the City official or the City official's spouse, registered domestic partner, or dependent child.

- e. Positions held on the board of a restricted source by the City official or the City official's spouse, registered domestic partner, or dependent child.
- 2. The disclosure shall be verified under penalty of perjury.
- 3. The disclosure shall be made in a method prescribed by the Ethics Commission and may include additional information the Ethics Commission deems necessary.
- 4. The disclosure shall be filed on the same schedule and for the same reporting period as the statement required by the Political Reform Act.
- 5. A City official is not required to disclose the name of a person who paid fees or made payments to the City official or to a business entity in which the City official or the City official's spouse or registered domestic partner holds an interest if the executive director determines that disclosing the person's name would violate a legally recognized privilege.

- C. The Ethics Commission may, by regulation, require the disclosure of specific types of financial interests, in addition to those interests required to be disclosed pursuant to this Section, if it is reasonably foreseeable that the interest could be materially affected by the City official's exercise of official City duties.

History:

*Amended by Ord. 167949, effective 7/5/92.
 Amended by Ord. 173101, effective 3/27/00.
 Amended by Ord. 173138, effective 4/24/00.
 Amended by Ord. 173870, effective 5/14/01.
 Amended by Ord. 177190, effective 1/23/06.
 Amended by Ord. 177853, effective 10/7/06.
 Amended by Ord. 182842, effective 2/10/14.
 Renumbered by Ord. 182842, effective 2/10/14 (prev. 49.5.6(A-C)).*

SEC. 49.5.10. DISCLOSURE BY NOMINEES.

- A. Each person nominated to a position in an agency subject to a conflict of interests code, where appointment is subject to confirmation by the City Council, shall file a financial disclosure statement with the Ethics Commission in the method prescribed by the Ethics Commission. The financial disclosure statement shall be filed within 21 days of the appointing authority's transmission of the nominee's appointment to the City Council.
- B. Within five business days of receiving a complete financial disclosure statement from the appointee, the Ethics Commission staff shall forward a copy of the financial disclosure statement to the appointing authority and the City Council or its committee confirming the appointment.

History:

*Amended by Ord. 167949, effective 7/5/92.
 Amended by Ord. 174613, effective 7/7/02.
 Amended by Ord. 182842, effective 2/10/14.
 Renumbered by Ord. 182842, effective 2/10/14 (prev. 49.5.7).*

SEC. 49.5.11. CONTRACTS GENERALLY.

- A. Except at a public meeting, a member of a City board or commission shall not participate in the development, review, evaluation, or negotiation of or the recommendation process for bids, proposals, or any other requests for the award or termination of a contract, amendment, or change order involving that board, commission, or agency. This does not preclude individual members from reviewing documents and other information provided by agency staff when preparing for a public meeting at which the matter will be considered.

B. The Ethics Commission shall provide an official, electronic City database for restricted sources that are identified in Sections 49.5.2(J)(1)(b) and 49.5.2(J)(2)(b).

1. Each agency shall submit to the Ethics Commission information regarding every person who, during the relevant time period, was a party to an agency contract, was a bidder on an agency contract, or responded to a request for proposals for an agency contract. Submitting the information to the City Clerk or to another City database shall not be deemed compliance with this Section.
2. Agency information must include the name of the person, the date the bid or response was submitted, the date the contract was entered into, any contract or proposal number, a brief description of the contract, and any other information deemed necessary by the Ethics Commission.
3. Agency information must be submitted in a method prescribed by the Ethics Commission by the following dates:
 - a. Every January 31, covering the immediately preceding October 1 through December 31;
 - b. Every April 30, covering the immediately preceding January 1 through March 31;
 - c. Every July 31, covering the immediately preceding April 1 through June 30; and
 - d. Every October 31, covering the immediately preceding July 1 through September 30.

4. For each agency, the Ethics Commission shall update the database within 45 days after a quarterly filing deadline that is specified in paragraph 3 or the date the agency submits complete quarterly information, whichever is later. The database shall include a disclaimer noting the date of the last update for each agency.
5. If an agency fails to submit complete quarterly information within five business [days] after a quarterly filing deadline specified in paragraph 3, the Ethics Commission staff shall notify every elected City officer and the agency's general manager or chief administrative officer of the delinquency. Failure to comply within 10 business days of the date of the notice will subject the agency's general manager, chief administrative officer, or responsible elected City officer to liability under Section 49.5.17.
6. For purposes of this Subsection, a City Council district is a distinct agency.
7. The City shall provide the Ethics Commission with adequate staffing and funding to create, maintain, and update the database.

History:

Amended by Ord. 176824, effective 8/27/05.

Amended by Ord. 182842, effective 2/10/14.

Renumbered by Ord. 182842, effective 2/140/14 (prev. 49.5.17).

SEC. 49.5.12. CONTRACTS AND MONEY LAUNDERING VIOLATIONS.

A. Competitively Bid Contracts.

1. An awarding authority shall not award a contract to a bidder if it finds the following:

- a. The Ethics Commission has found that the bidder violated City Charter Section 470(k) in the previous four years; and
 - b. The bidder lacks integrity such that it is unfit to perform the work specified in the contract. The awarding authority shall make that finding unless there are specific facts brought to its attention in writing that indicate otherwise.
2. If the findings in paragraph 1 are made, the awarding authority shall deem the bidder to be not responsible.
 3. Prior to making a finding that a bidder is not responsible, the awarding authority shall do the following:
 - a. Notify the bidder of its intention to consider making the finding.
 - b. Offer the bidder an opportunity to present evidence and argue that, despite the violation, the awarding authority should not have reason to question the bidder's integrity and fitness to perform the contract.
 - c. Hold an informal hearing at which the bidder and other interested parties may make presentations.
 - d. Consider the presentations of the bidder and other interested parties and be satisfied that the finding is merited.

B. Fee Waivers. A discretionary fee waiver of more than \$1,000 shall not be granted for a person who has been found by the Ethics Commission to have violated City Charter Section 470(k) within the previous four years.

C. Notice of Violations.

1. The Ethics Commission shall provide a copy of every Commission enforcement decision relating to a violation of City Charter Section 470(k) to the general manager or other head of each agency.
2. A person who submits a bid or proposal or requests a fee waiver shall include with the submission or request a copy of the Ethics Commission's decision of violation.
3. A report that contains sufficient information to allow a decision-making body to comply with this Section shall be submitted to the decision-making body by the following:
 - a. By the City Clerk, when the City Council is the decision-making body.
 - b. By agency staff when a City board or commission is the decision-making body.

D. Reduction of Time Period. The Ethics Commission may reduce the time during which this Section applies to not less than one year if it finds that the contracting party has done either of the following:

1. Accepted responsibility for the violation by entering into a stipulation with the Ethics Commission in which the party admits the violation or otherwise exhibits evidence of

having accepted responsibility; or

2. Mitigated the wrongdoing by taking prompt remedial or corrective action.

E. Waiver of Provisions. The City Council may waive any or all of the requirements in this Section if it finds that an overriding public policy consideration justifies doing so.

1. The finding must be approved in writing by a two-thirds vote of the City Council's entire membership.
2. The finding must identify the nature of the overriding public policy consideration and the reason why that consideration justifies the waiver. A waiver is justified if it would result in a significant community or financial benefit to the City or if it is necessary to preserve the health, safety, or welfare of the public.

F. Exception. This Section, excluding Subsection D(1), does not apply to the following proprietary City departments: Airports, City Employees Retirement System, Harbor, Library, Pensions, Recreation and Parks, and Water and Power.

History:

Added by Ord. 171142, effective 8/3/96.

Amended by Ord. 172942, effective 1/21/00.

Amended by Ord. 182842, effective 2/10/14.

Renumbered by Ord. 182842, effective 2/10/14 (prev. 49.5.21).

SEC. 49.5.13. LOBBYING ACTIVITIES OF CURRENT AND FORMER CITY OFFICIALS.

A. A member of a City board or commission who is required to file statements of economic interests pursuant to the Political Reform Act shall not receive compensation to communicate, either personally or

through an agent, with a City official for the purpose of attempting to influence action on a City matter on behalf of a person other than an agency. This Subsection does not prohibit a member of a City board or commission from appearing before an agency in the same manner as any other member of the general public solely to represent himself or herself in a matter related to his or her personal interests.

B. A former City official or agency employee who personally and substantially participated in a specific matter during City service shall not receive compensation to attempt to influence City action on that matter, either personally or through an agent, on behalf of a person other than an agency. Personal and substantial participation includes but is not limited to making or voting on a decision or making a recommendation, rendering advice, and conducting research or an investigation.

1. A former City official or agency employee shall not receive compensation to counsel or assist a person other than an agency regarding activity that is prohibited for the former City official or agency employee pursuant to this Subsection.

2. This prohibition applies as long as the matter is still pending before an agency or an agency is a party to the matter.

3. This prohibition does not apply when the former City official or agency employee participated in the matter in solely a ministerial capacity.

C. The following time-based restrictions on lobbying activities apply to former City officials.

1. For one year after leaving City service, a City official shall not receive compensation to attempt to influence, either personally or through an agent, City action on any matter pending before any agency on behalf of a person other than an agency if, during the 24 months preceding the official's departure from City service, the official held any of the following positions: elected City officer; Board of Public Works Commissioner; General Manager; Chief Administrative Officer; Mayor's Chief of Staff; Deputy Mayor; Mayoral Aide VII; Mayoral Aide VIII; Executive Assistant City Attorney; Chief Assistant City Attorney; Senior Assistant City Attorney; City Attorney Exempt Employee; Chief Deputy Controller; Administrative Deputy Controller; Principal Deputy Controller; Council Aide VI; or Council Aide VII.

2. For one year after leaving City service, all other former City officials shall not receive compensation to attempt to influence, either personally or through an agent, City action on any matter pending before an agency in which the City official served during the 24 months preceding the official's departure from City service on behalf of a person other than an agency. Serving an agency means being directly employed by or being assigned or on loan to that agency.

D. This Section does not apply to the following:

1. Attempts to influence solely ministerial action on City matters.
2. Attempts to influence made by former City officials who are officers

or employees of a governmental entity and are solely representing that entity in an official capacity.

- E.** By July 31 of every year, the City Controller shall submit to the Ethics Commission the names of each individual who held a position identified in Subsection (C)(1) during the preceding 24 months. By July 31 of every year, the City Clerk shall submit to the Ethics Commission the names of each individual who held a City Attorney Exempt position as provided in City Charter Section 1050(d) during the preceding 24 months.
- F.** Upon the petition of an interested party, a court or presiding officer in a judicial, quasi-judicial, or other proceeding may exclude a person found to be in violation of this Section from further participating in or assisting another participant in a proceeding pending before that court or presiding officer. Notice and an opportunity to be heard must be provided.

History:

Amended by Ord. 168057, effective 8/8/92.

Amended by Ord. 172891, effective 12/11/99.

Amended by Ord. 176823, effective 8/27/05.

Amended by Ord. 178064, effective 1/15/07.

Amended by Ord. 182842, effective 2/10/14.

Renumbered by Ord. 182842, effective 2/10/14 (prev. 49.5.11).

SEC. 49.5.14. FUTURE EMPLOYMENT.

A. The following limits on future employment apply to City officials.

1. The Mayor, the City Attorney, the City Controller, a general manager, and a chief administrative officer shall not directly or indirectly, knowingly or willfully negotiate the possibility of future employment or business opportunities with a person other than a governmental entity if the person has a matter that is

currently pending before that City official or the City official's agency.

2. A member of the City Council, a City board or commission, or another voting body of an agency who is required to file statements of economic interests pursuant to the Political Reform Act shall not directly or indirectly, knowingly or willfully negotiate the possibility of future employment or business opportunities with a person other than a governmental entity if the person has a matter that is currently pending before that City official or a body of which the City official is a voting member.
3. A City official other than one identified in Subsection 1 or 2 above shall not directly or indirectly, knowingly or willfully negotiate the possibility of future employment or business opportunities with a person other than a governmental entity if the person has a matter that is currently pending before that City official.
4. City officials shall not make, participate in making, or use their official City positions to influence a decision involving the interests of a person with whom they have an agreement concerning future employment or business opportunities.

- B.** A person who has a matter pending before a City official or a body of which the City official is a voting member shall not directly or indirectly, knowingly or willfully negotiate the possibility of future employment of or business opportunities for that City official.

- C.** A person has a matter pending if the person is a party to or is compensated to represent a party to the matter.

History:

Amended by Ord. 168057, effective 8/8/92.

Amended by Ord. 182842, effective 2/10/14.

Renumbered by Ord. 182842, effective 2/10/14 (prev. 49.5.12).

SEC. 49.5.15. ETHICS AND FRAUD AWARENESS TRAINING.

- A. Ethics Training.** All City officials are required to complete ethics training at the time of entering City service and once every two years thereafter. The training shall be developed by the Ethics Commission, in partnership with the Office of the City Attorney, and shall be structured to ensure that participants have knowledge to comply with all of the relevant ethics laws governing their service to the City.
- B. Fraud Awareness Training.** All full-time City employees are required to complete on-line training for fraud awareness at the time of entering City service and once every two years thereafter. The training shall be developed by the City Controller's Fraud, Waste and Abuse Unit and provided by the Personnel Department as described in the Los Angeles Administrative Code.

History:

Repealed by Ord. 172891, effective 12/11/99.

Added by Ord. 178064, effective 01/15/07.

Amended by Ord. 182478, effective 04/17/13.

Amended by Ord. 182842, effective 2/10/14.

Renumbered by Ord. 182842, effective 2/10/14 (prev. 49.5.18).

SEC. 49.5.16. ENFORCEMENT.

A. Criminal Enforcement.

1. A person who does any of the following is guilty of a misdemeanor:

- a. Knowingly or willfully violates a provision of this Article;
 - b. Knowingly or willfully causes another person to violate a provision of this Article; or
 - c. Aids and abets another person in violating a provision of this Article.
2. Prosecution shall be commenced within four years after the date of the violation.
 3. A person convicted of a misdemeanor under this Article shall not act as a City lobbyist or contractor for four years following the date of the conviction, unless the court at the time of sentencing specifically determines that this provision shall not be applied.
 4. For the purposes of this Section, a plea of nolo contendere shall be deemed a conviction.

B. Civil Actions.

1. A person who intentionally or negligently violates a provision of this Article shall be liable in a civil action brought by the City Attorney, the Ethics Commission, or a person residing within the City for an amount not more than the greater of \$5,000 per violation or three times the amount the person failed to report, properly or unlawfully contributed, expended, gave, or received.
2. If two or more persons are responsible for any violation, they shall be jointly and severally liable.
3. A person other than the City Attorney, before filing a civil action pursuant to this Subsection, shall first file with the Ethics Commission a written request for the Ethics Commission to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. The Ethics Commission shall respond within 40 days after receipt of the request, indicating whether it intends to file a civil action. If the Ethics Commission indicates in the affirmative and files an action within 40 days thereafter, no other action may be brought unless the action brought by the Ethics Commission is dismissed without prejudice.
4. In determining the amount of liability, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action, a private plaintiff shall receive 50 percent of the amount recovered. The remaining 50 percent shall be deposited into the City's General Fund. In an action brought by the City Attorney or the Ethics Commission, the entire amount shall be paid to the General Fund.
5. An action alleging a violation of this article may not be filed more than four years after the date the violation occurred.
6. The court may award to a party other than an agency who prevails in a civil action that party's costs of litigation, including reasonable attorney fees. If the costs are awarded against the City, the payment of the award is the

responsibility of the City, subject to City Council approval.

- C. Injunctive Relief.** A person residing within the City, including the City Attorney, may sue for injunctive relief to enjoin violations of or to compel compliance with this Article.
- D. Administrative Penalties.** The Commission may impose penalties and issue orders for violations of this Article pursuant to its authority under Charter Section 706(c).
- E. Discipline.** An appointed City official or agency employee who violates a provision of this Article shall be subject to administrative discipline by his or her appointing authority. Such discipline shall be administered in accordance with procedures prescribed by law or established by City policy. The Commission shall notify an agency when one of its City officials or employees is found to be in violation of this Article.
- F. Other Governmental Entities.** If a governmental entity that is required to adopt a conflict of interests code subject to City Council approval but is not otherwise within the City's control adopts governmental ethics regulations governing the conduct of its current or former officers or employees, violations of those regulations are subject to civil and administrative enforcement and discipline under Subsections B through E.

History:

*Amended by Ord. 168229, effective 10/11/92.
Amended by Ord. 170538, effective 7/13/95.
Amended by Ord. 172942, effective 1/21/00.
Amended by Ord. 175877, effective 5/5/04.
Amended by Ord. 182842, effective 2/10/14.
Renumbered by Ord. 182842, effective 2/10/14 (prev. 49.5.19).*

SEC. 49.5.17. LATE FILING PENALTIES.

In addition to any other penalties, a person who files an original statement or report after a deadline imposed by this Article is liable to the Ethics Commission in the amount of \$25 per day after the deadline until the statement or report is filed, up to a maximum of \$500. Liability need not be enforced by the Ethics Commission if its executive officer determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the Article. Liability may not be waived if a statement or report is not filed within 30 days after receiving notice from the Ethics Commission staff that the statement or report is past due.

History:

*Amended by Ord. 168229, effective 10/11/92.
Amended by Ord. 170538, effective 7/13/95.
Amended by Ord. 182842, effective 2/10/14.
Renumbered by Ord. 182842, effective 2/10/14 (prev. 49.5.20).*

SEC. 49.5.18. AUTHORITY TO ENACT.

This article is enacted pursuant to and under the authority of the City Charter, California Government Code Sections 1125 *et seq.*, California Government Code Section 81013, and California Constitution, Article XI, Section 5.

History:

*Renumbered by Ord. 171142, effective 8/3/96 (prev. 49.5.21).
Amended by Ord. 182842, effective 2/10/14.
Renumbered by Ord. 182842, effective 2/10/14 (prev. 49.5.22).*

SEC. 49.5.19. RECORDKEEPING.

Persons subject to this Article shall keep records that demonstrate compliance with this Article and the related provisions of the Political Reform Act and the City Charter for four years.

History:

Added by Ord. 182842, effective 2/10/14.

SEC. 49.5.20. SEVERABILITY.

The provisions of this Article are severable. If any provision of this Article or its application to any person or circumstances is held invalid by a court, the remainder of this Article and the application of the provision to other persons or circumstances is not affected by that determination, to the extent that the provision or its application can be given effect.

History:

Renumbered by Ord. 171142, effective 8/3/96 (prev. 49.5.23).

Amended by Ord. 182842, effective 2/10/14.

Renumbered by Ord. 182842, effective 2/10/14 (prev. 49.5.24).

Civil Service Commission

San Francisco Campaign and Governmental Conduct Code

SEC. 3.200. FINDINGS AND PURPOSE.

(a) The people of the City and County of San Francisco declare that public office is a public trust and all officers and employees of the City and County shall exercise their public duties in a manner consistent with this trust. To assure that the governmental processes of the City and County promote fairness and equity for all residents and to maintain public trust in governmental institutions, the people of the City and County declare that they have a compelling interest in creating laws regulating conflicts of interest and outside activities of City officers and employees.

(b) The proper operation of the government of the City and County of San Francisco requires that public officers and employees be independent, impartial, and responsible to the people and that public office and employment not be used for personal gain. The public interest, therefore, requires that officers and employees of the City and County be prohibited from making, participating in making or otherwise seeking to influence governmental decisions in which they have a financial interest or accepting gifts and other things of value from regulated sources.

(c) In order to maintain the public's confidence in the integrity of governmental decisions related to the appointment and discipline of public officers and employees, public officers and employees must not give or receive anything of value in consideration of their appointment or accept anything of value from their subordinates, and must not participate in decisions related to their own character or conduct or that of their family members.

(d) City and County contracts should be, and should appear to be, awarded on a fair and impartial basis. The practice of members of Boards and Commissions of the City and County contracting with the City and County creates the potential for, and the appearance of, favoritism or preferential treatment by the City and County. Prohibiting members of Boards and Commissions of the City and County from contracting with the City and County will eliminate both actual and perceived favoritism or preferential treatment without creating unnecessary barriers to public service.

(e) Government decisions of officers and employees of the City and County should be, and should appear to be, made on a fair and impartial basis. The practice of former officers and employees communicating with their former colleagues on behalf of private interests and the practice of current officers of the City and County communicating with other officers and employees on behalf of any other person for compensation creates the potential for, and the appearance of, undue influence, favoritism or preferential treatment. Prohibiting former officers and employees from communicating orally, in writing, or in any other manner with their former colleagues for specified periods of time and prohibiting current officers from communicating orally, in writing, or in any other manner with other officers and employees of the City and County on behalf of any other person for compensation will eliminate both actual and perceived undue influence, favoritism or preferential treatment without creating unnecessary barriers to public service.

(Added by Proposition E, 11/4/2003) (Former Section 3.200 added by Ord. 71-00, File No. 000358, App. 4/28/2000; repealed by Proposition E, 11/4/2003. Derivation: Former Administrative Code Section 16.980; added by Ord. 374-96, App. 9/30/96)

SEC. 3.202. CONSTRUCTION.

This Chapter shall be liberally construed in order to effectuate its purposes, provided that nothing in this Chapter shall be interpreted or applied to prohibit officers, members and representatives of employee organizations from engaging in organizational activities that are protected by the California Meyers-Milias-Brown Act, the First Amendment to the United States Constitution or any other federal, state or local law. No error, irregularity, informality, neglect or omission of any officer in any procedure taken under this Chapter which does not directly affect the jurisdiction of the Board of Supervisors or the City and County to control the ethical conduct of its officers and employees shall avoid the effect of this Chapter.

(Added by Proposition E, 11/4/2003)

SEC. 3.204. AMENDMENT OR REPEAL OF THIS CHAPTER.

The voters may amend or repeal this Chapter. The Board of Supervisors may amend this Chapter if all of the following conditions are met:

- (a) The amendment furthers the purposes of this Chapter;
- (b) The Ethics Commission approves the proposed amendment by at least a four-fifths vote of all its members;
- (c) The proposed amendment is available for public review at least 30 days before the amendment is considered by the Board of Supervisors or any committee of the Board of Supervisors; and
- (d) The Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members.

(Added by Proposition E, 11/4/2003)

SEC. 3.206. FINANCIAL CONFLICTS OF INTEREST.

(a) Incorporation of the California Political Reform Act. No officer or employee of the City and County shall make, participate in making, or seek to influence a decision of the City and County in which the officer or employee has a financial interest within the meaning of California Government Code Section 87100 et seq. and any subsequent amendments to these Sections.

(b) Incorporation of California Government Code 1090, et seq. No officer or employee of the City and County shall make a contract in which he or she has a financial interest within the meaning of California Government Code Section 1090 et seq. and any subsequent amendments to these Sections.

(c) Future Employment. No officer or employee of the City shall make, participate in making, or otherwise seek to influence a governmental decision, affecting a person or entity with whom the officer or employee is discussing or negotiating an agreement concerning future employment.

(Added by Proposition E, 11/4/2003)

SEC. 3.208. APPOINTMENTS AND NOMINATIONS.

No person shall give or promise, and no officer or employee of the City and County may solicit or accept, any money or other valuable thing in consideration for (i) the person's nomination or appointment to any City and County office or employment, or promotion or other favorable City and County employment action, or (ii) any other person's nomination or appointment to any City and County office or employment or promotion or other favorable City and County employment action.

(Added by Proposition E, 11/4/2003)

SEC. 3.210. VOTING ON OWN CHARACTER OR CONDUCT.

(a) Prohibition. No officer or employee of the City and County shall knowingly vote on or attempt to influence a governmental decision involving his or her own character or conduct, or his or her appointment to any office, position, or employment.

(b) Exceptions. Nothing in this Section shall prohibit an officer or employee from (i) responding to allegations, applying for an office, position, or employment, or responding to inquiries; or (ii) participating in the decision of his or her board, commission, or committee to choose him or her as chair, vice chair, or other officer of the board, commission, or committee.

(Added by Proposition E, 11/4/2003)

SEC. 3.212. DECISIONS INVOLVING FAMILY MEMBERS.

(a) Prohibition. No officer or employee of the City and County may make, participate in making, or otherwise seek to influence a decision of the City and County regarding an employment action involving a relative. Nothing in this Section shall prohibit an officer or employee from acting as a personal reference or providing a letter of reference for a relative who is seeking appointment to a position in any City department, board, commission or agency other than the officer or employee's department, board, commission or agency or under the control of any such department, board, commission or agency.

(b) Delegation. A Department Head who is prohibited under Subsection (a) from participating in an employment action involving a relative shall delegate in writing to an employee within the department any decisions regarding such employment action.

(c) Definitions. For purposes of this Section, the term "employment action" shall be limited to hiring, promotion, or discipline, and the term "relative" shall mean a spouse, domestic partner, parent, grandparent, child, sibling, parent-in-law, aunt, uncle, niece, nephew, first cousin, and includes any similar step relationship or relationship created by adoption.

(Added by Proposition E, 11/4/2003)

SEC. 3.214. DISCLOSURE OF PERSONAL, PROFESSIONAL AND BUSINESS RELATIONSHIPS.

(a) Disclosure. A City officer or employee shall disclose on the public record any personal, professional or business relationship with any individual who is the subject of or has an ownership or financial interest in the subject of a governmental decision being made by the officer or employee where as a result of the relationship, the ability of the officer or employee to act for the benefit of the public could reasonably be questioned. For the purposes of this Section, the minutes of a public meeting at which the governmental decision is being made, or if the governmental decision is not being made in a public meeting, a memorandum kept on file at the offices of the City officer or employee's department, board, commission or agency shall constitute the public record.

(b) Penalties. A court may void any governmental decision made by a City officer or employee who fails to disclose a relationship as required by Subsection (a) if the court determines that: (1) the failure to disclose was willful; and (2) the City officer or employee failed to render his or her decision with disinterested skill, zeal, and diligence and primarily for the benefit of the City. No other penalties shall apply to a violation of this Section, provided that nothing in this Section shall prohibit an appointing authority from imposing discipline for a violation of this Section.

(c) Regulations. The Ethics Commission may adopt regulations setting forth the types of personal, professional and business relationships that must be disclosed pursuant to this Section.

(Added by Proposition E, 11/4/2003)

CAMPAIGN AND GOVERNMENTAL CONDUCT CODE

ARTICLE III: CONDUCT OF GOVERNMENT OFFICIALS AND EMPLOYEES

CHAPTER 2: CONFLICT OF INTEREST AND OTHER PROHIBITED ACTIVITIES

SEC. 3.216. Gifts.

SEC. 3.224. Prohibition on Representing Private Parties Before Other City Officers and Employees--Compensated Advocacy.

SEC. 3.218. INCOMPATIBLE ACTIVITIES.

(a) Prohibition. No officer or employee of the City and County may engage in any employment, activity, or enterprise that the department, board, commission, or agency of which he or she is a member or employee has identified as incompatible in a statement of incompatible activities adopted under this Section. No officer or employee may be subject to discipline or penalties under this Section unless he or she has been provided an opportunity to demonstrate that his or her activity is not in fact inconsistent, incompatible or in conflict with the duties of the officer or employee.

(b) Statement of Incompatible Activities. Every department, board, commission, and agency of the City and County shall, by August 1 of the year after which this Section becomes effective, submit to the Ethics Commission a statement of incompatible activities. No statement of incompatible activities shall become effective until approved by the Ethics Commission after a finding that the activities are incompatible under the criteria set forth in Subsection (c). After initial approval by the Ethics Commission, a department, board, commission or agency of the City and County may, subject to the approval of the Ethics Commission, amend its statement of incompatible activities. The Ethics Commission may, at any time, amend the statement of incompatible activities of any department, board, commission or agency of the City and County.

(c) Required Language. Each statement of incompatible activities shall list those outside activities that are inconsistent, incompatible, or in conflict with the duties of the officers and employees of the department, board, commission, or agency of the City and County. This list shall include, but need not be limited to, activities that involve: (1) the use of the time, facilities, equipment and supplies of the City and County; or the badge, uniform, prestige, or influence of the City and County officer or employee's position for private gain or advantage; (2) the receipt or acceptance by an officer or employee of the City and County of any money or other thing of value from anyone other than the City and County for the performance of an act that the officer or employee would be required or expected to render in the regular course of his or her service or employment with the City and County; (3) the performance of an act in a capacity other than as an officer or employee of the City and County that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of the City and County officer or employee's department, board, commission or agency; and (4) time demands that would render performance of the City and County officer or employee's duties less efficient. The Ethics Commission may permit City boards and commissions to exclude any required language from their statement of incompatible activities if their members, by law, must be appointed in whole or in part to represent any profession, trade, business, union or association.

(d) Meet and Confer. No statement of incompatible activities or any amendment thereto shall become operative until the City and County has satisfied the meet and confer requirements of State law.

(e) Notice. Every department, board, commission and agency of the City and County shall annually provide to its officers and employees a copy of its statement of incompatible activities.

(f) Existing Civil Service Rules. Rules and Regulations relating to outside activities previously adopted or approved by the Civil Service Commission shall remain in effect until statements of incompatible activities are adopted pursuant to this Section.

(Added by Proposition E, 11/4/2003)

SEC. 3.220. PROHIBITION ON DUAL OFFICE HOLDING.

Any person holding an office under the City and County with an annual salary in excess of \$2,500, whether by election or by appointment, who shall, during his or her term of office, hold or retain any other office with such a salary under the government of the United States, the State of California, or the City and County shall be deemed to have thereby vacated the office held by him or her under the City and County. For the purposes of this Section, the term salary does not include: (1) a stipend, per diem, or other payment provided for attendance at meetings; or (2) health, dental or vision insurance, or other non-cash benefits.

(Added by Proposition E, 11/4/2003)

SEC. 3.222. PROHIBITING MEMBERS OF BOARDS AND COMMISSIONS FROM CONTRACTING WITH THE CITY AND COUNTY.

(a) Definitions. For purposes of this Section, the following definitions shall apply:

(1) Board or Commission. The term "board or commission" means an appointed board or commission created by Charter or ordinance of the City and County, but does not include advisory boards or commissions.

(2) Business. The term "business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, or other legal entity or undertaking organized for economic gain.

(3) City and County. The term "City and County" includes any commission, board, department, agency, committee, or other organizational unit of the City and County of San Francisco.

(4) Contract. The term "contract" means any agreement to which the City and County is a party, other than a grant funded in whole or in part by the City and County or an agreement for employment with the City and County in exchange for salary and benefits.

(5) Subcontract. The term "subcontract" means a contract to perform any work that a primary contractor has an agreement with the City and County to perform.

(b) Prohibition. No member of a board or commission of the City and County shall, during his or her term of office, contract or subcontract with the City and County, the San Francisco Redevelopment Agency, the San Francisco Housing Authority, the San Francisco Unified School District, or the San Francisco Community College District, where the amount of the contract or the subcontract exceeds \$10,000.

(c) Exceptions. This Section shall not apply to the following contracts or subcontracts:

(1) A contract or subcontract with a nonprofit organization;

(2) A contract or subcontract with a business with which a member of a board or commission is affiliated unless the member exercises management and control over the business. A member exercises management and control if he or she is:

(A) An officer or director of a corporation;

(B) A majority shareholder of a closely held corporation;

(C) A shareholder with more than five percent beneficial interest in a publicly traded corporation;

(D) A general partner or limited partner with more than 20 percent beneficial interest in the partnership; or

(E) A general partner regardless of percentage of beneficial interest and who occupies a position of, or exercises management or control of the business;

(3) A contract or subcontract with the City and County entered into before a member of a board or commission commenced his or her service; or

(4) An agreement to provide property, goods or services to the City and County at substantially below fair market value.

(d) Limitation. Failure of a member of a board or commission to comply with this Section shall not be grounds for invalidating any contract with the City and County.

(Added by Proposition E, 11/4/2003)

SEC. 3.224. PROHIBITION ON REPRESENTING PRIVATE PARTIES BEFORE OTHER CITY OFFICERS AND EMPLOYEES--COMPENSATED ADVOCACY.

(a) Prohibition. No officer of the City and County shall directly or indirectly receive any form of compensation to communicate orally, in writing, or in any other manner on behalf of any other person with any other officer or employee of the City and County with the intent to influence a government decision.

(b) Exceptions. This section shall not apply to any communication by: (1) an officer of the City and County on behalf of the City and County; (2) an officer of the City and County on behalf of a business, union, or organization of which the officer is a member or full-time employee; (3) an associate, partner or employee of an officer of the City and County, unless it is clear from the totality of the circumstances that the associate, partner or employee is merely acting as an agent of the City and County officer; or (4) a City officer in his or her capacity as a licensed attorney engaged in the practice of law, which includes representing clients in communications with the City Attorney's Office, District Attorney's Office, Public Defender's Office, attorneys in the Tax Collector's Office or Sheriff's Office, outside legal counsel hired by the City, representatives of the City who are named in a pending litigation matter or witnesses or potential witnesses in a pending litigation matter.

(c) Waiver. The Ethics Commission may waive the prohibitions in this section for any member of a City board or commission who, by law, must be appointed to represent any profession, trade, business, union or association.

(Added by Proposition E, 11/4/2003; Ord. 97-06, File No. 051837, App. 5/19/2006)

SEC. 3.226. REFERRALS.

No officer or employee of the City and County shall: (a) receive any money, gift or other thing of economic value from a person or entity other than the City and County for referring a member of the public to a person or entity for any advice, service or product related to the processes of the City and County; or (b) condition any governmental action on a member of the public hiring, employing, or contracting with any specific person or entity. The Ethics Commission may waive the restriction in Subsection (b) if the Commission determines that granting a waiver is necessary for the proper administration of a governmental program or action.

(Added by Proposition E, 11/4/2003)

SEC. 3.228. DISCLOSURE OR USE OF CONFIDENTIAL CITY INFORMATION.

No current or former officer or employee of the City and County shall: (a) willfully or knowingly disclose any confidential or privileged information, unless authorized or required by law to do so; or (b) use any confidential or privileged information to advance the financial or other private interest of himself or herself or others. Confidential or privileged information is information that at the time of use or disclosure was not subject to disclosure under the Sunshine Ordinance or California Public Records Act.

(Added by Proposition E, 11/4/2003)

SEC. 3.230. PROHIBITION ON POLITICAL ACTIVITY.

(a) Solicitation of Contributions. No City officer or employee shall knowingly, directly or indirectly, solicit political contributions from other City officers or employees or from persons on employment lists of the City. Nothing in this Section shall prohibit a City officer or employee from communicating through the mail or by other means requests for political contributions to a significant segment of the public which may include City officers or employees.

(b) Political Activities in Uniform. No City officer or employee shall participate in political activities of any kind while in uniform.

(c) Political Activities on City Time or Premises. No City officer or employee may engage in political activity during working hours or on City premises. For the purposes of this Subsection, the term "City premises" shall not include City owned property that is made available to the public and can be used for political purposes.

(Added by Proposition E, 11/4/2003)

SEC. 3.232. PROHIBITION ON USE OF PUBLIC FUNDS FOR PRINTED GREETING CARDS.

(a) Definitions. The term "greeting card" means any printed card that celebrates or recognizes a holiday.

(b) Prohibition. No public funds may be used to design, produce, create, mail, send, or deliver any printed greeting card. The Controller of the City and County of San Francisco shall, in the Controller's sole discretion, determine whether a payment is prohibited under this Section.

The Controller's decision regarding whether a payment is prohibited under this Section is final.

(Added by Proposition E, 11/4/2003)

SEC. 3.234. POST-EMPLOYMENT RESTRICTIONS.

(a) All Officers and Employees.

(1) General Post-Employment Restrictions.

(A) Permanent restriction on representation in particular matters. No former officer or employee of the City and County, after the termination of his or her service or employment with the City, shall, with the intent to influence, act as agent or attorney, or otherwise represent, any other person (except the City and County) before any court, or before any state, federal, or local agency, or any officer or employee thereof, by making any formal or informal appearance or by making any oral, written, or other communication in connection with a particular matter:

(i) in which the City and County is a party or has a direct and substantial interest;

(ii) in which the former officer or employee participated personally and substantially as a City officer or employee;

(iii) which involved a specific party or parties at the time of such participation; and

(iv) which is the same matter in which the officer or employee participated as a City officer or employee.

(B) Permanent restriction on assisting others in particular matters. No former officer or employee of the City and County, after the termination of his or her service or employment with the City, shall aid, advise, counsel, consult or assist another person (except the City and County) in any proceeding in which the officer or employee would be precluded under Subsection

(A) from personally appearing.

(C) Exception for testimony. The prohibitions in Subsections A and B do not prohibit a former officer or employee of the City and County from testifying as a witness, based on the former officer's or employee's personal knowledge, provided that no compensation is received other than the fees regularly provided for by law or regulation of witnesses.

(D) One year restriction on communicating with former department. No former officer or employee of the City and County, for one year after termination of his or her service or employment with the City, shall, with the intent to influence a government decision, communicate orally, in writing, or in any other manner on behalf of any other person (except the City and County) with any officer or employee of the department, board, commission, office or other unit of government, for which the officer or employee served.

(E) Waiver.

(i) At the request of a former City officer or employee, the Ethics Commission may waive any of the restrictions in Subsections (a)(1) (A), (a)(1)(B) and (a)(1)(D) if the Commission determines that granting a waiver would not create the potential for undue influence or unfair advantage.

The Ethics Commission shall adopt regulations implementing this provision.

(ii) The Ethics Commission may waive any of the restrictions in Subsections (a)(1)(A), (a)(1)(B) and (a)(1)(D) for members of City boards and commissions who, by law, must be appointed to represent any profession, trade, business, union or association.

(2) Future Employment.

(A) Future Employment With Parties That Contract With The City. No officer or employee of the City shall, for a period of one year after termination of City service or employment, be employed by or otherwise receive compensation from a person or entity that entered into a contract with the City within the 12 months prior to the officer or employee leaving City service where the officer or employee personally and substantially participated in the award of the contract.

(B) Waiver. At the request of a former City officer or employee, the Ethics Commission may waive the prohibition in Subsection (a)(2)(A) if the Commission determines that imposing the restriction would cause extreme hardship for the former City officer or employee. The Ethics Commission shall adopt regulations implementing this provision.

(b) Mayor and Members of the Board of Supervisors.

(1) One year restriction on communicating with City departments. For purposes of the one-year restriction under Subsection (a)(1)(D), the "department" for which a former Mayor or member of the Board of Supervisors served shall be the City and County and the prohibition in Subsection (a)(1)(D) shall extend to communications with:

(A) a board, department, commission or agency of the City and County;

(B) an officer or employee of the City and County;

(C) an appointee of a board, department, commission, agency, officer, or employee of the City and County; or

(D) a representative of the City and County.

(2) City service. No former Mayor or member of the Board of Supervisors shall be eligible for a period of one year after the last day of service as Mayor or member of the Board of Supervisors, for appointment to any full time, compensated employment with the City and County. This restriction shall not apply to a former Mayor or Supervisor elected to an office of the City and County, appointed to fill a vacancy in an elective office of the City and County, or appointed to a board or commission in the executive branch.

(Added by Proposition E, 11/4/2003)

SEC. 3.236. AIDING AND ABETTING.

No person shall knowingly and intentionally provide assistance to or otherwise aid or abet any other person in violating any of the provisions of this Chapter.

(Added by Proposition E, 11/4/2003)

SEC. 3.238. FILING OF FALSE CHARGES.

No person shall knowingly and intentionally file with the Ethics Commission, the District Attorney or the City Attorney any false charge alleging a violation of this Chapter.

(Added by Proposition E, 11/4/2003)

SEC. 3.240. PROVISION OF FALSE OR MISLEADING INFORMATION; WITHHOLDING OF INFORMATION; AND DUTY TO COOPERATE AND ASSIST.

(a) Prohibition. No person shall knowingly and intentionally furnish false or fraudulent evidence, documents, or information to the Ethics Commission, District Attorney or City Attorney, or knowingly and intentionally misrepresent any material fact, or conceal any evidence, documents, or information relevant to an investigation by the Ethics Commission, District Attorney or City Attorney of an alleged violation of this Chapter.

(b) Duty to Cooperate and Assist. The Ethics Commission, District Attorney or City Attorney may request and shall receive from every City officer and employee cooperation and assistance with an investigation into an alleged violation of this Chapter.

(Added by Proposition E, 11/4/2003)

SEC. 3.242. PENALTIES AND ENFORCEMENT.

(a) Criminal Penalties. Any person who knowingly or willfully violates any of the City's conflict of interest and governmental ethics laws shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$10,000 for each violation or by imprisonment in the County jail for a period of not more than one year in jail or by both such fine and imprisonment.

(b) Civil Penalties. Any person who intentionally or negligently violates any City conflict of interest or governmental ethics law shall be liable in a civil action brought by the City Attorney for an amount up to \$5,000 for each violation.

(c) Injunctive Relief. The City Attorney or any resident may bring a civil action on behalf of the people of San Francisco to enjoin violations of or compel compliance with a conflict of interest or governmental ethics law. No resident may commence a civil action under this Section without first notifying the City Attorney in writing of the intent to file a civil action under this Section. If the City Attorney fails to notify the resident within 120 days of receipt of the notice that the City Attorney has filed or will file a civil action, the complainant may file the action. No resident may file an action under this Section if the City Attorney responds within 120 days that the City Attorney intends to file an action or has already filed a civil action. No resident may bring an action under this Section if the Ethics Commission has issued a finding of probable cause arising out of the same facts, the District Attorney has commenced a criminal action arising out of the same facts, or another resident has filed a civil action under this Section arising out of the same facts. A court may award reasonable attorney's fees and costs to any resident who obtains injunctive relief under this Section.

(d) Administrative Penalties. Any person who violates any of the City's conflict of interest or governmental ethics laws shall be liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter. In addition to the administrative penalties set forth in the Charter, the Ethics Commission may issue warning letters to City officers and employees.

(e) Statute of Limitations. No person may bring a criminal, civil or administrative action under this Section against any other person more than four years after the date of the alleged violation.

(Added by Proposition E, 11/4/2003)

SEC. 3.244. SEVERABILITY.

If any provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Chapter and the applicability of such provisions to other persons and circumstances shall not be affected thereby.

(Added by Proposition E, 11/4/2003) Ethics Commission

SEC. 4.100. FINDINGS.

The City and County of San Francisco has a paramount interest in protecting the integrity of its government institutions. To further this interest, individuals should be encouraged to report to the City's Ethics Commission, Controller, District Attorney, City Attorney and the complainant's department possible violations of laws, regulations and rules governing the conduct of City officers and employees.

This Chapter protects all City officers and employees from retaliation for filing a complaint with, or providing information to, the Ethics Commission, Controller, District Attorney, City Attorney or complainant's department about improper government activity by City officers and employees.

Finally, this Chapter ensures that complaints that do not allege a violation of law over which the Ethics Commission has jurisdiction are directed to the appropriate agency for investigation and possible disciplinary or enforcement action. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Ord. 29-02, File No. 020017, App. 3/15/2002)

SEC. 4.105. COMPLAINTS OF IMPROPER GOVERNMENT ACTIVITY; INVESTIGATION PROCEDURES; REFERRAL TO OTHER AGENCIES.

(a) COMPLAINTS. Any person may file a complaint with the Ethics Commission, Controller, District Attorney or City Attorney, or a written complaint with the complainant's department alleging that a City officer or employee has engaged in improper government activity by: violating local campaign finance, lobbying, conflicts of interest or governmental ethics laws, regulations or rules; violating the California Penal Code by misusing City resources; creating a specified and substantial danger to public health or safety by failing to perform duties required by the officer or employee's City position; or abusing his or her City position to advance a private interest.

(b) ETHICS COMMISSION COMPLAINT PROCEDURES. The Ethics Commission shall investigate complaints filed under this Section that allege violations of local campaign finance lobbying, conflicts of interest and governmental ethics laws pursuant to the procedures specified in Charter Section C3.699-13 and the regulations adopted thereunder. Nothing in this subsection shall preclude the Ethics Commission from referring any matter to any other City department, commission, board, officer or employee or to other government agencies for investigation and possible disciplinary or enforcement action. The Ethics Commission may require that any City department, commission, board, officer or employee report to the Ethics Commission on the referred matter.

(c) REFERRAL. The Ethics Commission shall refer complaints that do not allege a violation of law, regulation or rule that is within the Ethics Commission's jurisdiction to the appropriate agency for investigation and possible disciplinary or enforcement action. The Commission may conduct preliminary investigations into such complaints to determine whether the complaint contains sufficient information to warrant referral. The Ethics Commission may require that any City department, commission, board, officer or employee report to the Ethics Commission on the referred matter. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Ord. 29-02, File No. 020017, App. 3/15/2002)

SEC. 4.110. DEFINITIONS.

For purposes of this Chapter, the following words and phrases shall have the following meanings:

(a) The term "City" means the City and County of San Francisco, its departments, commissions and boards.

(b) The term "complainant's department" includes the complainant's supervisor, the executive director or highest ranking officer in the complainant's department, and the board or commission overseeing the complainant's department.

(c) The term "preliminary investigation" shall be limited to, but need not include: review of the complaint and any documentary evidence provided with the complaint; interview of the complainant; interview of the respondent, counsel to respondent and any witnesses who voluntarily agree to be interviewed for this purpose; review of any relevant public documents and documents provided voluntarily to the Commission. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Ord. 29-02, File No. 020017, App. 3/15/2002)

SEC. 4.115. PROTECTION OF WHISTLEBLOWERS.

(a) RETALIATION PROHIBITED. No City officer or employee may terminate, demote, suspend or take other similar adverse employment action against any City officer or employee because the officer or employee has in good faith filed a complaint with the Ethics Commission, Controller, District Attorney or City Attorney, or a written complaint with the complainant's department, alleging that a City officer or employee engaged in improper government activity by: violating local campaign finance, lobbying, conflicts of interest or governmental ethics laws, regulations or rules; violating the California Penal Code by misusing City resources; creating a specified and substantial danger to public health or safety by failing to perform duties required by the officer or employee's City position; or abusing his or her City position to advance a private interest.

(b) COMPLAINTS OF RETALIATION FOR HAVING FILED A COMPLAINT ALLEGING IMPROPER GOVERNMENT ACTIVITY.

(i) Administrative Complaints. Any city officer or employee, or former city officer or employee, who believes he or she has been the subject of retaliation in violation of Subsection (a) of this Section may file a complaint with the Ethics Commission. The complaint must be filed no later than two years after the date of the retaliation.

The Ethics Commission shall investigate complaints of violations of Subsection (a) of this Section pursuant to the procedures specified in San Francisco Charter Section C3.699-13 and the regulations adopted thereunder. The Ethics Commission may decline to investigate complaints alleging violations of Subsection (a) if it determines that the same or similar allegations are pending with or have been finally resolved by another administrative or judicial body. Nothing in this Subsection shall preclude the Ethics Commission from referring any matter to any other City department, commission, board, officer or employee, or to other government agencies for investigation and possible disciplinary or enforcement action. The Ethics Commission may refer matters to the Department of Human Resources with a recommendation. The Ethics Commission may require that any City department, commission, board, officer or employee report to the Ethics Commission on the referred matter.

(ii) Civil Complaints. Any City officer or employee who believes he or she has been the subject of retaliation in violation of Subsection (a) of this Section may bring a civil action against the City officer or employee who committed the violation. Such action must be filed no later than two years after the date of the retaliation.

(iii) Burden of Establishing Retaliation. In order to establish retaliation under this Section, a complainant must demonstrate by a preponderance of the evidence that the complainant's engagement in activity protected under Subsection (a) was a substantial motivating factor for the adverse employment action. The employer may rebut this claim if it demonstrates by a preponderance of the evidence that it would have taken the same employment action irrespective of the complainant's participation in protected activity.

(c) PENALTIES.

(i) Charter Penalties. Any City officer or employee who violates Subsection (a) of this Section may be subject to administrative penalties pursuant to Charter Section C3.699-13.

(ii) Discipline by Appointing Authority. Any City officer or employee who violates Subsection (a) of this Section shall be subject to disciplinary action up to and including dismissal by his or her appointing authority. If no disciplinary action is taken by the appointing authority, the Ethics Commission may refer the matter to the Civil Service Commission for action pursuant to Charter Section A8.341.

(iii) Civil Penalties. Any City officer or employee who violates Subsection (a) of this Section may be personally liable in a civil action authorized under Subsection (b)(ii) of this Section for a civil penalty not to exceed \$5,000.

(d) RESERVATION OF AUTHORITY.

(i) Civil Service Commission. Nothing in this Section shall interfere with the powers granted to the Civil Service Commission by the San Francisco Charter.

(ii) Appointing Authority. Nothing in this Section shall interfere with the power of an appointing officer, manager, or supervisor to take action with respect to any City officer or employee, provided that the appointing officer, manager, or supervisor reasonably believes that such action is justified on facts separate and apart from the fact that the officer or employee filed a complaint with, or cooperated with, an Ethics Commission investigation of such complaint; or filed a complaint with or provided information to the Controller, District Attorney, City Attorney or the complainant's department.

(e) NOTICE OF WHISTLEBLOWER PROTECTIONS. The Ethics Commission shall prepare, and each City department shall post a notice of whistleblower protections. The notice shall be posted in a location that is conspicuous and accessible to all employees. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000; amended by Ord. 29-02, File No. 020017, App. 3/15/2002)

SEC. 4.120. CONFIDENTIALITY.

(a) WHISTLEBLOWER IDENTITY. Any individual who files a complaint under Section 4.105 of this Chapter may elect to have his or her identity kept confidential as provided by Charter Section C3.699-13(a). Such election must be made at the time the complaint is filed.

(b) COMPLAINTS AND INVESTIGATIONS. The Ethics Commission shall treat as confidential complaints made under Section 4.105 of this Chapter, and related information, including but not limited to materials gathered and prepared in the course of investigation of

such complaints, and deliberations regarding such complaints, as provided by Charter Section C3.699-13(a).

(c) EXCEPTIONS.

(i) Conduct of Investigations. Nothing in this Section shall preclude the Ethics Commission from disclosing the identity of an individual or other information to the extent necessary to conduct its investigation.

(ii) Referrals. Nothing in this Section shall preclude the Ethics Commission from referring any matter to any other City department, commission, board, officer or employee, or to other government agencies for investigation and possible disciplinary or enforcement action. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000)

SEC. 4.125. COOPERATION OF OTHER CITY DEPARTMENTS.

All City departments, commissions, boards, officers and employees shall cooperate with and provide full and prompt assistance to the Ethics Commission in carrying out its duties under this Chapter. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000)

SEC. 4.130. REPORTS TO THE BOARD OF SUPERVISORS.

The Ethics Commission shall provide an annual report to the Board of Supervisors which shall include the following:

- (1) The number of complaints received;
- (2) The type of conduct complained about;
- (3) The number of referrals to the Civil Service Commission, other City departments, or other government agencies;
- (4) The number of investigations the Ethics Commission conducted;
- (5) Findings or recommendations on policies or practices resulting from the Ethics Commission's investigations;
- (6) The number of disciplinary actions taken by the City as a result of complaints made to the Ethics Commission; and
- (7) The number and amount of administrative penalties imposed by the Ethics Commission as a result of complaints made to the Commission. (Added by Ord. 71-00, File No. 000358, App. 4/28/2000)

SEC. 4.135. LIMITATION OF LIABILITY.

In adopting and enforcing this Chapter, the City undertakes to promote the general welfare. The City is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages.

(Added by Ord. 71-00, File No. 000358, App. 4/28/2000)

Article 7: Elections, Campaign Finance and Lobbying

Division 35: City of San Diego Ethics Ordinance

*(“City of San Diego Ethics Ordinance”
added 4-29-2002 by O-19055 N.S.)*

§27.3501 Purpose and Intent

It is the purpose and intent of the *City Council* of the City of San Diego in enacting this Division to assure that individuals and interest groups in our society have a fair and equal opportunity to participate in government; to embrace clear and unequivocal standards of disclosure and transparency in government so as to avoid conflicts of interest and the appearance of conflicts of interest; to increase understanding of the *City Charter*, ordinances, and the roles of *City Officials*; to help reinforce public trust in governmental institutions; and to assure that this Division is vigorously enforced.
(“Purpose and Intent” added 4-29-2002 by O-19055 N.S.)

§27.3502 Citation

This Division shall be cited as the City of San Diego Ethics Ordinance.
(“Citation” added 4-29-2002 by O-19055 N.S.)

§27.3503 Definitions

Each word or phrase that is defined in this Division appears in the text of this Division in italicized letters. Except as otherwise provided herein, the terms and provisions of this Division shall have the meanings and shall be interpreted in accordance with the applicable definitions and provisions of the Political Reform Act of 1974, as amended (California Government Code sections 81000 through 91014) and the regulations of the California Fair Political Practices Commission, as amended. For purposes of this Division, the following definitions shall apply:

Benefit means any *honorarium*, *gift*, *travel expense*, or *loan* made to, or in the interest of, an individual or a member of the individual’s *immediate family*.

Campaign Control Ordinance means the San Diego Municipal Election Campaign Control Ordinance, codified at Chapter 2, Article 7, Chapter 29 of the San Diego Municipal Code.

City means the City of San Diego or any of its organizational subdivisions, agencies, offices, or boards.

City Board includes the boards of directors of all *City* agencies, and any board, commission, committee, or task force of the *City* established by action of the *City* Council under authority of the *City* Charter, Municipal Code, or Council resolution, whose members are required to file a statement of economic interests pursuant to the California Political Reform Act of 1974, as amended.

City Official includes:

- (a) any elected or appointed *City* officeholder, including any *City* officeholder elected but not yet sworn in; and
- (b) any *City Board* member; and
- (c) any employee of the *City*, except for classified employees as that term is defined in San Diego Charter section 117, who is required to file a statement of economic interests pursuant to the California Political Reform Act of 1974, as amended; and
- (d) *City* Council members acting in their capacity as Housing Authority and Redevelopment Agency officers; and
- (e) any consultants of the *City* who are required to file a statement of economic interests pursuant to the California Political Reform Act of 1974, as amended.

Compensation means the receipt of any monetary or non-monetary payment, except a stipend paid to a board member of a public non-profit corporation to which the *City* is the sole member, for the services or time of a *person*. *Compensation* includes, but is not limited to, salary, wages, fees, and any discount or economic opportunity not made available in the regular course of business to members of the public.

Confidential information means information to which any of the following apply:

- (a) At the time of the use or disclosure of the information, the disclosure is prohibited by a statute, regulation, or rule which applies to the *City*; or
- (b) the information is not general public knowledge and will have, or could reasonably be expected to have, a material financial effect on any source of income, investment, or interest in the real property of a *City Official*; or
- (c) the information pertains to pending contract, labor, or real property negotiations and disclosing the information could reasonably be expected to compromise the bargaining position of the *City*; or

- (d) the information pertains to pending or anticipated litigation and disclosing the information could reasonably be expected to compromise the ability of the *City* to successfully defend, prevail in, or resolve the litigation.

Direct Communication means:

- (a) talking to a *person*, either by telephone or in person; or
- (b) corresponding with a *person*, either in writing, by electronic transmission, or by facsimile machine.

Direct Communication does not include:

- (a) solely responding to questions from any *City Official*; or
- (b) a direct response to an enforcement proceeding with the *City*.

Doing business with the City means entering into or performing pursuant to a contract with the *City*. *Doing business with the City* includes soliciting, entering into, or performing contracts for goods, equipment, services or financial assistance but does not include the receipt of or payment for services normally rendered by the *City* to residents and businesses such as sewer service, water service, street maintenance, and similar services.

Ethics Commission means the City of San Diego Ethics Commission created by City of San Diego Ordinance O-18945, codified in Chapter 2, Article 6, Division 4, of the San Diego Municipal Code.

Filer means a *High Level Filer* or a *Local Code Filer*.

Filing Officer means the Clerk of the City of San Diego charged with the duties and responsibilities prescribed in title 2, sections 18110 and 18115 of the California Code of Regulations.

Gift means any *payment* that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. Any *person*, other than a defendant in a criminal action, who claims that a *payment* is not a *gift* by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value. The value of a *gift* shall be as determined by title 2, section 18946 of the California Code of Regulations.

High Level Filer means the Mayor, the members of the *City Council*, the *City Attorney*, the *City Manager* (Chief Operating Officer), the *City Treasurer*, the *City Comptroller*, the Chief Financial Officer, the Chief Investment Officer, Investment Officers, members of the Planning Commission, members of the Funds Commission, members of the Retirement Board, members of the Defined Contribution Plan Board, any candidate for an elective office of the *City*, and any other individual whose position is specified in California Government Code section 87200.

Honorarium means any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.

- (a) A “speech given” means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate.
- (b) An “article published” means a nonfictional written work:
 - (1) that is produced in connection with any activity other than the practice of a bona fide business, trade, or profession; and
 - (2) that is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication.
- (c) “Attendance” means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering.

Immediate family means an individual’s spouse and dependent children.

Influencing a municipal decision means affecting or attempting to affect any action by a *City Official* on one or more *municipal decisions* by any method, including promoting, supporting, opposing, participating in, or seeking to modify or delay such action. *Influencing a municipal decision* also includes providing information, statistics, analysis or studies to a *City Official*.

Loan means the temporary transfer of money or goods for the personal use of an individual with the expectation that the money or goods will be returned.

Lobbying means *Direct Communication* with a *City Official* for the purpose of *influencing a municipal decision* on behalf of any other *person*.

Lobbying firm means any entity defined as a “lobbying firm” in San Diego Municipal Code section 27.4002.

Lobbyist means any individual defined as a “lobbyist” in San Diego Municipal Code section 27.4002.

Local Code Filer means any *City Board* member, any consultant, and any employee of the *City*, except for classified employees, who is required to file a statement of economic interests pursuant to a conflict of interest code adopted by the *City Council*.

Ministerial act means an act that does not require a *City Official* to exercise discretion concerning any outcome or course of action.

Municipal decision means any governmental decision that is not a *ministerial act*.

Organization lobbyist means any entity defined as an “organization lobbyist” in San Diego Municipal Code section 27.4002.

Party means any *person* who files an application for, or is the subject of, or participates in a *municipal decision*.

Payment means a distribution, transfer, *loan*, advance, deposit, or other rendering of money, property, services, or anything else of value, whether tangible or intangible.

Pecuniary Gain means any monetary benefit to a *person* or to a member of the *person’s immediate family*.

Person means any individual, business entity, trust, corporation, association, committee, or any other organization or group of *persons* acting in concert.

Private business means any organization, partnership, corporation, or entity that is not a *Public Agency*.

Public Agency means the United States or any of its agencies; the State of California; the *City*; any political subdivision of the State, including counties and districts; or any public corporation, agency, or commission.

Public Hearing means any meeting as defined by the Ralph M. Brown Act where a public record is kept of who spoke and who was represented by a *Lobbyist* testifying at that hearing.

Restricted source includes:

- (a) a *lobbyist*, *lobbying firm*, or *organization lobbyist*, seeking to influence a *municipal decision*;

- (b) a *person doing business with the City*; and
- (c) a *person* who, during the reporting period, *directly communicated* with a *City Official* pertaining to a *municipal decision* which would have a material financial effect on such *person*; or
- (d) a *person* who is a party to a *municipal decision* which within the prior nine months was pending before the *City Official*, and for nine months following the date a final decision is rendered in the proceeding.

A *restricted source* does not include an individual (other than a *lobbyist*) who is employed by a *restricted source*.

Travel expenses means reasonable payments, advances, or reimbursements for travel, including actual transportation and related lodging, food, and beverages.

(“Definitions” added 4-29-2002 by O-19055 N.S.)
(Amended 12-5-2005 by O-19448 N.S.; effective 1-11-2006.)
(Amended 9-19-2006 by O-19538 N.S.; effective 10-19-2006.)
(Amended 8-3-2007 by O-19656 N.S. effective 1-1-2008)
(Amended 10-15-2013 by O-20302 N.S.; effective 11-14-2013.)

§27.3510 Disclosure of Economic Interests

- (a) All *High Level Filers* shall file a statement of economic interests with the *Filing Officer* of the City of San Diego pursuant to the Political Reform Act of 1974, as amended.
- (b) All *Local Code Filers* shall file a statement of economic interests with the *Filing Officer* of the City of San Diego pursuant to the applicable Conflict of Interest Code adopted by the *City Council*.
- (c) On or before April 1 of each calendar year, all individuals referred to in subsections (a) and (b) shall file a statement of economic interests covering a disclosure period of January 1 through December 31 of the previous calendar year, except that any such individual who assumed a *City* office between October 1 and December 31 of the previous year and files a statement of economic interests pursuant to subsection (e) need not file a statement of economic interests until the following year.

- (d) In addition to the requirements set forth in subsection (c), on or before July 31 of each calendar year, all *High Level Filers* elected to office by the electors of the City of San Diego shall, on a form provided by the *Ethics Commission*, either certify that they have not received any reportable *gifts* during the period of January 1 through June 30, or disclose any reportable *gifts* received during that period.
- (e) Every *Filer* assuming office shall file a statement of economic interests within 30 calendar days after assuming office, unless the *City Official* is beginning a new term in the same office.
- (f) Every *Filer* who leaves office shall file a statement of economic interests within 30 calendar days of leaving office, unless that *City Official* is assuming another office with the *City*.
- (g) The information and amounts required to be disclosed with respect to each financial interest, and the manner of disclosing that information, shall be the same as required by Article 2 of Chapter 7 of the Political Reform Act of 1974, as amended, or by the Conflict of Interest Code adopted by the Council of the City of San Diego and applicable to the *Filer*.
(*"Disclosure of Economic Interests" added 4-29-2002 by O-19055 N.S.*)

§27.3515 Disclosure of Behested Payments

- (a) A *City Official* who is an elected *High Level Filer* shall file a Fair Political Practices Commission Form 803 Behested Payment Report if any *person* makes one or more *payments* totaling \$5,000 or more for a legislative, governmental, or charitable purpose at the behest of the official. A *payment* is made at the behest of an official if it is requested, solicited, or suggested by the official, or otherwise made in cooperation, consultation, coordination with, or at the consent of, the official.
- (b) The *City Official* shall file the Form 803 with the *City Clerk* within thirty calendar days following the date on which a *payment* causes the total *payments* made by that *person* at the behest of the official to reach or exceed \$5,000 in the same calendar year.
- (c) Once a *person* has reached the \$5,000 threshold during a calendar year, each subsequent behested *payment* by that *person* in any amount during the same calendar year must be reported to the *City Clerk* on a Form 803 within thirty calendar days.

- (d) A *payment* behested by a *City Official* includes a *payment* behested by his or her agent or employee on behalf of the official.
 - (e) This section shall be interpreted in a manner consistent with the provisions of California Government Code section 82015(b)(2)(B)(iii) and title 2, section 18215.3 of the California Code of Regulations.
- (“*Disclosure of Behested Payments*” added 10-15-2013 by O-20302 N.S.; effective 11-14-2013.)

§27.3520 Restrictions on Benefits to Filers

For the purposes of this section, a *benefit* offered to, solicited by, or accepted by, a *Filer* includes any *benefit* offered to, solicited by, or accepted by any member of a *Filer’s immediate family*, except as provided in section 27.3525. Subject to the exceptions set forth in section 27.3525, *Filers* are subject to the following restrictions with regard to their acceptance of *benefits*:

- (a) It is unlawful for a *High Level Filer* to accept *gifts* from a single source in any calendar year with a total value of more than \$440. This *gift* threshold is subject to adjustment in accordance with the provisions of section 27.3521.
- (b) It is unlawful for a *High Level Filer* to accept an *honorarium*.
- (c) It is unlawful for a *High Level Filer* to accept a *loan* that exceeds \$250 at any given time from a *City Official* or *City* employee.
- (d) It is unlawful for a *High Level Filer* to accept a *loan* that exceeds \$250 at any given time from a *restricted source*.
- (e) It is unlawful for an elected *High Level Filer* to accept a *loan* that exceeds \$500 unless:
 - (1) The *loan* is made in writing and clearly states the terms of the *loan*; and
 - (2) The *loan* document includes the names of the parties to the *loan* agreement, as well as the date, amount, interest rate, and term of the *loan*; and
 - (3) The *loan* document includes the date or dates when payments are due and the amount of the payments.
- (f) It is unlawful for a *Local Code Filer* to accept *gifts* from any single source in any calendar year with a total value of more than \$440 if the *Local Code Filer* would be required to report the receipt of the *gift* from that source on his or her statement of economic interests. This *gift* threshold is subject to adjustment in accordance with the provisions of section 27.3521.

- (g) It is unlawful for a *Local Code Filer* to accept an *honorarium* from any source if that individual would be required to report the receipt of income or *gifts* from the source of the *honorarium* on his or her statement of economic interests.
- (h) It is unlawful for any *person* to offer, or for any *Filer* to solicit or accept, any *benefit* with the intent that the *Filer* will be influenced thereby in the performance of any official act.

(“*Restrictions on Benefits to Filers*” added 4-29-2002 by O-19055 N.S.)
(Amended 10-15-2013 by O-20302 N.S.; effective 11-14-2013.)

§27.3521 Adjustment of Gift Limitations

The *gift* limitation amounts set forth in section 27.3520(a) and (f) are intended to be consistent with the California gift limitation amount amended biannually by the California Fair Political Practices Commission. Notwithstanding the dollar amounts set forth in section 27.3520(a) and (f), the *gift* limitation amount for this Division shall be the same as set forth in title 2, section 18940.2 of the California Code of Regulations.

(“*Adjustment of Gift Limitations*” added 4-29-2002 by O-19055 N.S.)
(Amended 10-15-2013 by O-20302 N.S.; effective 11-14-2013.)

§27.3522 Acceptance of Benefits

- (a) A *benefit* is “accepted” when the recipient knows that he or she has either actual possession of the *benefit* or takes any action exercising direction or control over the *benefit*.
- (b) In the case of a rebate or discount, a *benefit* is “accepted” when the recipient knows that the rebate or discount is not made in the regular course of business to members of the public.
- (c) Discarding a *benefit* does not negate receipt or acceptance of the *benefit*, except when the *benefit* is a pass or ticket that has not been used or transferred to another *person*.
- (d) Turning a *benefit* over to another *person* does not negate receipt or acceptance of the *benefit*.

(“*Acceptance of Benefits*” added 4-29-2002 by O-19055 N.S.)
(Amended 10-15-2013 by O-20302 N.S.; effective 11-14-2013.)

§27.3525 Exceptions to Restrictions on Benefits

- (a) All exceptions relating to *gifts, loans, honoraria, and travel expenses* contained in the Political Reform Act of 1974, as amended, including but not limited to California Government Code sections 82028 and 89501 through 89506, and the regulations of the California Fair Political Practices Commission, as amended, including but not limited to Regulations 18930 through 18961, are hereby adopted by reference and incorporated into the City of San Diego Ethics Ordinance as if fully set forth herein.
- (b) For purposes of subsection (a), any exception not applicable to a *gift, loan, honorarium, or travel expense* from a lobbyist, lobbying firm, or lobbyist employer registered with the State of California shall also not apply to a *gift, loan, honorarium, or travel expense* from a *lobbyist, lobbying firm, or organization lobbyist* registered with the City.

(“*Exceptions to Restrictions on Benefits*” added 4-29-2002 by O-19055 N.S.)
(Amended 10-15-2013 by O-20302 N.S.; effective 11-14-2013.)

§27.3530 Loans as Gifts

- (a) A *loan* received by a *City Official* may become a *gift* and subject to the *gift* reporting and limitations set forth in section 27.3520, as follows:
 - (1) If the *loan* has a defined date or dates for repayment and has not been repaid, the *loan* will become a *gift* when the statute of limitations for filing an action for default has expired; or
 - (2) If the *loan* has no defined date or dates for repayment, the *loan* will become a *gift* if it remains unpaid when one year has elapsed from the later of:
 - A. The date the *loan* was made; or
 - B. The date the last payment of \$100 or more was made on the *loan*; or
 - C. The date upon which the *City Official* has made payments aggregating to less than \$250 during the previous twelve months.

- (b) The following *loans* will not become *gifts* to a *City Official*:
- (1) A *loan* described above on which the creditor has taken reasonable action to collect the balance due; and
 - (2) A *loan* described above on which the creditor, based on reasonable business considerations, has not undertaken collection action. (However, except in a criminal action, the creditor has the burden of proving that the decision not to take collection action was based on reasonable business considerations.)
 - (3) A *loan* made to a *City Official* who has filed for bankruptcy and the *loan* is ultimately discharged in bankruptcy.

(“*Loans as Gifts*” added 4-29-2002 by O-19055 N.S.)

§27.3550 Lobbying Activities of Former City Officials

- (a) It is unlawful for any former *City Official* who received *compensation* from the *City* to work on a particular project during his or her *City* service to engage in *direct communication* with the *City*, for *compensation*, with regard to any pending application for discretionary funding or discretionary entitlements before the *City* relating to that particular project on behalf of any *person* for a one-year period immediately following termination of service with the *City* or for a two-year period if he or she is a former elected *City Official*.
- (1) For purposes of this section, “work on a particular project” means to take part personally and substantially in the project by rendering a decision, approval, or disapproval; by making a formal written recommendation; by conducting an investigation; by rendering advice on a significant basis; or by using *confidential information*.
 - (2) For purposes of this section, “project” means any matter where a *private business* has made an application to the *City* for discretionary funding or discretionary entitlements, or where the *City* exercises discretion to enter into a lease, agreement, or contract with a *private business*.

- (b) It is unlawful for any former *City Official*, for *compensation*, to knowingly counsel or assist any *person* in connection with an appearance or communication in which the former *City Official* is prohibited from engaging pursuant to subsection (a) for a one-year period immediately following termination of service with the *City*, or for a two-year period if he or she is a former elected *City Official*.
- (c) As a means of facilitating compliance with subsections (a) and (b) in instances where long-term projects may change in character and scope over time and where large projects have discrete components or phases, any former *City Official* may seek a written determination from the *Ethics Commission* regarding whether prospective *direct communication* on a particular project would constitute a violation of this section.
- (d) It is unlawful for any former *City Official* to engage in *direct communication* for the purpose of *lobbying* the *City* if all of the following circumstances apply:
 - (1) the former *City Official* served as a *City Official* within the previous year, or within the previous two years if he or she is a former elected *City Official*; and
 - (2) the former *City Official* received *compensation* from the *City* for his or her service as a *City Official*; and
 - (3) the former *City Official* is receiving *compensation* to engage in the *direct communication* with the *City*.
- (e) Except as set forth in subsection (f), which governs former elected *City Officials* and former Chief Operating Officers, the prohibitions contained in subsections (a), (b), and (d) do not apply:
 - (1) to prevent a former *City Official* from making or providing a statement, based on the former *City Official's* own special knowledge in the particular area that is the subject of the statement, provided that no *compensation* is thereby received other than that regularly provided for by law or regulation for witnesses;
 - (2) to prevent any former *City Official* from representing himself or herself, or any member of his or her *immediate family*, in their individual capacities, in connection with any matter pending before the *City*;

- (3) to the activities of any former *City Official* who is an officer, employee, or independent contractor of any *Public Agency* when that former *City Official* is solely representing that agency in his or her official capacity as an officer, employee, or independent contractor of the agency;
 - (4) to any *ministerial act*;
 - (5) to any individual appearing as a speaker at, or providing written statements that become part of the record of a *Public Hearing*; or
 - (6) to any communication among attorneys representing a party or potential party to pending or actual litigation brought by or against the *City* or *City* agent, officer, or employee.
- (f) Former elected *City Officials* and former Chief Operating Officers are subject to the provisions of California Government Code section 87406.3 and any amendments thereto, which is hereby adopted by reference and incorporated into the City of San Diego Ethics Ordinance as if fully set forth herein. Accordingly:
- (1) the exceptions in subsections (e)(1), (e)(5), and (e)(6) do not apply to a former elected *City Official* or to a former Chief Operating Officer; and
 - (2) the exception in subsection (e)(3) does not apply to a former elected *City Official* for a period of two years after leaving *City* service, or to a former Chief Operating Officer for a period of one year after leaving *City* service, when such individuals are communicating on behalf of a *Public Agency* as an independent contractor.

(“*Lobbying Activities of Former City Officials*” added 4-29-2002 by O-19055 N.S.)
(Amended 9-19-2006 by O-19538 N.S.; effective 10-19-2006.)
(Amended 10-15-2013 by O-20302 N.S.; effective 11-14-2013.)
(Amended 3-7-2019 by O-21045 N.S.; effective 4-6-2019.)

§27.3551 Future Employment of City Officials

- (a) It is unlawful for any *City Official* to make, participate in making, or use his or her official position to influence a decision involving the interests of a *person* with whom the *City Official*, or a member of the *City Official's immediate family*, is seeking, negotiating, or securing an agreement concerning future employment.
- (b) It is unlawful for any *person* who has a matter pending before the *City* to negotiate, directly or indirectly, knowingly or willfully, the possibility of future employment of a *City Official*, or a member of the *City Official's immediate family*, if that *City Official* is making, participating in making, or using his or her official position to influence, a decision concerning that matter.
- (c) The prohibitions set forth in subsections (a) and (b) do not apply to a *City Official's* prospective employment with a *public agency*.

(“*Future Employment of City Officials*” added 4-29-2002 by O-19055 N.S.)
(Amended 4-23-2008 by O-19737 N.S.; effective 5-23-2008.)
(Amended 10-15-2013 by O-20302 N.S.; effective 11-14-2013.)

§27.3560 Financial Interest in Contract

- (a) It is unlawful for any *City Official* to be financially interested in any contract made by them in their official capacity.
- (b) It is unlawful for any contract to be made by the *City Council* or any board or commission established by the *City Council* if any individual member of the body has a financial interest in the contract.
- (c) Any *City Official* with a remote interest in a prospective contract of the *City* must disclose the existence of the remote interest to the body of the board which the *City Official* is a member if that board has any role in creating, negotiating, reviewing, or approving the contract; and the *City Official* must abstain from influencing or participating in the creation, negotiation, review, or approval of the contract.

- (d) This section shall be interpreted in a manner that is consistent with California Government Code sections 1090 through 1099. In this regard, these provisions of state law are hereby adopted by reference and incorporated into the City of San Diego Ethics Ordinance as if fully set forth herein.

*(“Financial Interest in Contract” added 4-29-2002 by O-19055 N.S.)
(Amended 10-15-2013 by O-20302 N.S.; effective 11-14-2013.)*

§27.3561 Disqualification of City Officials in Municipal Decisions Affecting Economic Interests

- (a) It is unlawful for a *City Official* to make, participate in making, or in any way use his or her official position to influence a *municipal decision* in which he or she knows or has reason to know he or she has a disqualifying financial interest.
- (b) A *City Official* has a disqualifying financial interest in a *municipal decision* if that *municipal decision* will have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, directly on the *City Official* or his or her *immediate family*, or on any of their economic interests in business entities, real property, sources of income, sources of gifts, or their own personal finances.
- (c) This section shall be interpreted in a manner that is consistent with the provisions of California Government Code sections 87100 through 87105 and title 2, sections 18700 through 18709 of the California Code of Regulations. In this regard, these provisions of state law are hereby adopted by reference and incorporated into the City of San Diego Ethics Ordinance as if fully set forth herein.

*(“Disqualification of City Officials in Municipal Decisions Affecting Economic Interests” added 4-29-2002 by O-19055 N.S.)
(Amended 10-15-2013 by O-20302 N.S.; effective 11-14-2013.)*

§27.3562 Disqualification of City Officials in Municipal Decisions Involving Benefactors

- (a) It is unlawful for any *City Official* to participate in any *municipal decision* where a *party* to the *municipal decision* has, within the previous twelve months, given the *City Official*, promised to give the *City Official*, or acted as an intermediary for the *City Official* to have, an opportunity for *compensation*.

- (b) For purposes of this section, opportunities for *compensation* provided to a *City Official* include opportunities for *compensation* provided to the *City Official's immediate family*. When such an opportunity for *compensation* is provided to a member of the *City Official's immediate family*, the *City Official* shall not participate in a *municipal decision* involving a *party* to the *municipal decision* unless the *City Official* had no knowledge or involvement in securing the opportunity for *compensation*.
- (c) This section does not apply to opportunities for *compensation* provided by a *public agency*.

(“Disqualification of City Officials in Municipal Decisions Involving Benefactors” added 4-29-2002 by O-19055 N.S.)
(Amended 10-15-2013 by O-20302 N.S.; effective 11-14-2013.)

§27.3563 Incompatible Activities

It is unlawful for any *City Official* who receives *compensation* from the *City* to engage in any employment, activity, or enterprise for *compensation* which is inconsistent with, incompatible with, in conflict with, or inimical to, his or her duties as a *City Official*. Specifically, it is unlawful for any *City Official* to receive *compensation* for performing any work, service, activity, or enterprise for private gain or advantage if it involves:

- (a) the consumption of time for which the *City Official* is receiving *compensation* by the *City*; or
- (b) the facilities, equipment, or supplies of the *City*; or
- (c) the *City Official's* use of his or her badge, uniform, prestige, or the influence of his or her position with the *City*; or
- (d) *compensation* received or accepted by the *City Official* from anyone other than the *City* for the performance of an act which the *City Official* would be required or expected to render in the regular course or hours of his or her *City* employment or as a part of his or her duties as a *City Official*; or
- (e) the performance of an act in other than his or her capacity as a *City Official* which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other *City Official*; or
- (f) a consumption of time that would render the performance of his or her duties as a *City Official* less efficient.

(“Incompatible Activities” added 4-29-2002 by O-19055 N.S.)

§27.3564 Misuse of City Position or Resources

- (a) It is unlawful for any *City Official* to use his or her position or prospective position, or the power or authority of his or her office or position, in any manner intended to induce or coerce any *person* to provide, directly or indirectly, anything of value which shall accrue to the private advantage, benefit, or economic gain, of the *City Official* or his or her *immediate family*. As used in this section, the term “private advantage, benefit, or economic gain” means any advantage, benefit, or economic gain, distinct from that enjoyed by members of the public without regard to official status or not resulting naturally from lawful and proper performance of duties. A *City Official* engages in a prohibited use of his or her official position or prospective position when he or she engages in activities other than in the lawful and proper performance of his or her *City* duties.
- (b) It is unlawful for any *City Official* to engage in campaign-related activities, such as fund-raising, the development of electronic or written materials, or research, for a campaign for any elective office using *City* facilities, equipment, supplies, or other *City* resources.
- (c) It is unlawful for any *City Official* to induce or coerce, or attempt to induce or coerce any other *person* to engage in any activity prohibited by subsections (a) and (b).
- (d) It is unlawful for any *City Official* to engage in outside employment during any hours he or she is receiving *compensation* to engage in *City* business.
- (e) It is unlawful for any current or former *City Official* to use or disclose to any *person* any *confidential information* he or she acquired in the course of his or her official duties, except as authorized by law.
- (f) Nothing in this section shall prohibit the use of *City* resources to provide information to the public about the possible effects of any bond issue or other ballot measure relating to *City* activities, operations, or policies, provided that:
 - (1) the use of public resources is otherwise legally authorized; and
 - (2) the information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

(“*Misuse of City Position or Resources*” added 4-29-2002 by O-19055 N.S.)

(Amended 10-15-2013 by O-20302 N.S.; effective 11-14-2013.)

(Amended 12-10-2018 by O-21023 N.S.; effective 1-9-2019.)

§27.3570 Political Influence Prohibited

It is unlawful for any *City Official* to use or promise to use his influence or official authority to secure any appointment or prospective appointment, to any position in the service of the *City* as a reward or return for personal or partisan political service. (*“Political Influence Prohibited” added 4-29-2002 by O-19055 N.S.*)

§27.3571 Solicitation of Political Campaign Contributions

- (a) It is unlawful for any *City Official* to solicit, directly or indirectly, a political campaign contribution from any *City* employee with knowledge that the *person* from whom the contribution is solicited is a *City* employee.
- (b) It is unlawful for any candidate for elective office of the *City* to solicit, directly or indirectly, a political campaign contribution from a *City* employee with knowledge that the *person* from whom the contribution is solicited is a *City* employee.
- (c) Notwithstanding subsections (a) and (b), this section shall not prohibit a *City Official* or a candidate for elective office of the *City* from soliciting political campaign contributions from *City* employees if the solicitation is part of a solicitation made to a significant segment of the public which may include *City* employees, and the solicitation does not otherwise violate the provisions of the *Campaign Control Ordinance*.
- (d) Nothing in this section prohibits a *City* employee from making a political campaign contribution to a *City Official* or candidate for elective office, and nothing in this section prohibits a *City Official* or candidate for elective office from accepting a political campaign contribution from a *City* employee.

(*“Solicitation of Political Campaign Contributions” added 4-29-2002 by O-19055 N.S.*)

§27.3572 No Payment for Office

It is unlawful for any *City Official* to give or promise to give to any *person* any portion of his or her *compensation* or any money or thing of value in consideration of having been, or of being nominated, appointed, voted for, or elected to any office or employment.

(*“No Payment for Office” added 4-29-2002 by O-19055 N.S.*)

§27.3573 Protection of Employees Against Retaliation for Reporting Violations

- (a) It is unlawful for any *City Official* to use or threaten to use any official authority or influence to discourage, restrain, or interfere with any other *person* for the purpose of preventing such *person* from acting in good faith to report or otherwise bring to the attention of the *Ethics Commission* or other appropriate agency, office, or department any information which, if true, would constitute:
- (1) a work-related violation by a *City Official* of any law or regulation; or
 - (2) a gross waste of *City* funds; or
 - (3) a gross abuse of authority; or
 - (4) a conflict of interest of a *City Official*; or
 - (5) a specific and substantial danger to public health or safety due to an act or omission of a *City Official*, use of a *City* office or position, or use of *City* resources for personal gain.
- (b) It is unlawful for any *City Official* to use or threaten to use any official authority or influence to effect any action as a reprisal against a *City Official* who reports or otherwise brings to the attention of the *Ethics Commission* or other appropriate agency, office, or department any information regarding the subjects described in subsection (a).
- (c) Any *person* who believes that he or she has been subjected to any action prohibited by this section may file a complaint with the *Ethics Commission*. The *Ethics Commission* shall thereupon investigate the complaint in accordance with the provisions of Chapter 2, Article 6, Division 4, of this Municipal Code. Upon the conclusion of its investigation, the *Ethics Commission* may take appropriate action as allowed under its enforcement authority.
- (d) In the event the *Ethics Commission* determines that it has a conflict of interest in an investigation of a retaliation complaint, the *Ethics Commission* staff shall refer the investigation of the retaliation complaint to the *City Attorney* who shall take appropriate action as otherwise provided by law.

(“Protection of Employees Against Retaliation for Reporting Violations” added 4-29-2002 by O-19055 N.S.)

§27.3580 Ethics Commission Advice

Any *City Official* or *Filer* may request that the *Ethics Commission* provide written advice concerning the legality of accepting any specific *benefit*, or concerning the legality of any other activity discussed in this Division. Such request shall contain sufficient information to allow the *Ethics Commission* or its staff to properly consider the matter.

(“Ethics Commission Advice” added 4-29-2002 by O-19055 N.S.)

§27.3581 Enforcement

- (a) Any *person* who believes that a violation of any portion of this Division has occurred may file a complaint with the *Ethics Commission*.
- (b) The *Ethics Commission* may elect to enforce the provisions of this Division administratively pursuant to Chapter 2, Article 6, Division 4, or may otherwise recommend or refer enforcement actions to the *City Attorney* or other law enforcement agency with jurisdiction.
- (c) Nothing in this Division limits the authority of the *City Attorney*, any law enforcement authority, or any prosecuting attorney to enforce the provisions of this Division under any circumstances where the *City Attorney*, law enforcement agency, or prosecuting attorney otherwise has lawful authority to do so.

(“Enforcement” added 4-29-2002 by O-19055 N.S.)

§ 27.3582 Application of Requirements

The requirements imposed by this Division on *City Officials* shall not apply to any *City Official* who terminated his or her *City* service or whose term of office expired prior to the effective date of this Division; provided, however, that a *person* who returns to *City* service on or after the effective date of this Division shall be subject to the requirements of this Division.

(“Application of Requirements” added 4-29-2002 by O-19055 N.S.)

§27.3583 Penalties

- (a) Any *person* who violates any part of this Division, or who counsels, aids, abets, advises, or participates with another to commit any such violation, is guilty of a misdemeanor and is subject to the penalties set forth in Chapter 1 of this Municipal Code.
- (b) Any *person* who violates any part of this Division, or who counsels, aids, abets, advises, or participates with another to commit any such violation is subject to the administrative enforcement process and penalties set forth in Chapter 2, Article 6, Division 4, of this Municipal Code.
- (c) Any *person* criminally convicted in a court of law of a violation of any provision of this Division shall be ineligible to hold a *City* elective office for a period of five years from and after the date of the conviction.
(“Penalties” added 4-29-2002 by O-19055 N.S.)

§27.3588 Late Filing Penalties

If any *Filer* files a statement of economic interests after any deadline imposed by this Division, he or she shall, in addition to any other penalties or remedies established by the Division, be liable to the *City* in the amount of ten dollars (\$10) per day after the deadline until the statement is filed. Liability need not be enforced by the *City* if the *Filing Officer* or the *Ethics Commission* determines, on an impartial basis, that the late filing was not willful and that enforcement of the liability will not further the purposes of this Division, except that no liability shall be waived if a statement or report is not filed within 30 calendar days after the *Filing Officer* has sent such *Filer* specific written notice of the filing requirement.
(“Late Filing Penalties” added 4-29-2002 by O-19055 N.S.)

§27.3595 Applicability of Other Laws

Nothing in this Division shall exempt any *person* from complying with applicable provisions of any other laws.
(“Applicability of Other Laws” added 4-29-2002 by O-19055 N.S.)