

LRC "Ethics" Provision

Louisville Home Rule Charter Ethics Code

Section 2. Conflict of Interest. No member, officer, or employee of the Commission (including by illustration only, consultants, experts, legal counsel), nor any immediate member of the family of any such member, officer, or employee shall acquire, nor shall any such member, officer, or employee retain any interest, direct or indirect, in any project or in any property included or planned to be included in any project, nor shall he/she have any interest, direct or indirect, in any contract of proposed contract for materials or services to be furnished or used in connection with any project. If any commissioner, officer, or employee of the Commission owns or controls an interest, direct or indirect, in any property included or planned to be included in any project, such information shall immediately be disclosed in writing to the Commission, and such disclosure shall be entered upon the minutes of the Commission. Upon such disclosure, such commissioner, officer, or employee shall not participate in any action by the Commission affecting the carrying out of the project planning or undertaking of the project unless the Commission determines that, in the light of such personal interest, the participation of such member in any such act would not be contrary to the public interest. Acquisition or retention of any such interest or willful failure to disclose shall constitute misconduct in office. Notwithstanding the foregoing, the Commission shall comply with all applicable laws regarding conflicts of interest.

Section 5-7. Code of Ethics - Definitions.

For purposes of the Code of Ethics only, the following words shall have the following meanings:

(a) "Business entity" means:

(1) Any corporation whether for profit or nonprofit, governmental entity, business, trust, limited liability company, partnership, association, or other legal entity; and

(2) Any other form of business, sole proprietorship, firm, or venture, carried on for profit.

(b) "Contract" means any arrangement or agreement pursuant to which any material, service, or other thing of value is to be furnished for a valuable consideration or is to be sold or transferred.

(c) "Domestic partnership" means an exclusive committed relationship between two (2) unmarried adult persons who are unrelated by blood, maintain a mutual residence, and share basic living expenses.

(d) "Interest" means a pecuniary, property, or commercial benefit, or any other benefit the primary significance of which is economic gain or the avoidance of economic loss, but does not include:

(1) Any matter in which a similar benefit is conferred to all persons or property similarly situated nor does it include the ownership or control of shares of stock; or

(2) Any beneficial interest in shares of stock, the aggregate amount of which constitutes one (1) percent or less of the shares of stock of the business entity then outstanding.

(e) "Official action" means any legislative, administrative, or quasi-judicial act of any officer, public body member, or employee, or of the City Council or any public body of the City.

(f) "Public body" means any board or commission, or any task force or committee, except any task force or committee for which the City Council determines, in the resolution establishing it, that Sections 5-6 through 5-17, or such portions thereof as selected by the Council, shall not apply because the public interest would be served by the participation of persons who would otherwise have an interest in the matters to be addressed by the task force or committee.

(g) "Relative" means any person related to an officer, public body member, or employee by blood, marriage, or domestic partnership, in any of the following degrees: parents, spouse, children, brothers, sisters, parents-in-law, nephews, nieces, aunts, uncles, first cousins,

grandparents, grandchildren, and children-in-law. A separation between spouses shall not be deemed to terminate relationships described herein.

Section 5-8. Code of Ethics - Related persons and entities; duration of interest.

(a) An interest of the following persons and entities shall be deemed to constitute an interest of the officer, public body member, or employee for purposes of the requirements of Section 5-9 and Section 5-10:

(1) Any relative of the officer, public body member, or employee; or

(2) Any business entity in which the officer, public body member, or employee is an officer, director, employee, partner, principal, member, or owner (other than stockholder);

(3) Any business entity in which the officer, public body member, or employee owns or controls shares of stock, or any beneficial interest in shares of stock, the aggregate amount of which constitutes more than one (1) percent of the shares of stock of the business entity then outstanding; or

(4) Any business entity in which the officer is an officer, director, employee, partner, principal, member, or owner (other than stockholder), where the business entity is seeking to advance its financial benefit through an official action of the City, if the officer would be directly or indirectly involved in making the decision.

(b) For purposes of the Code of Ethics, participation in a stock mutual fund shall not be considered an interest in any business entity in which the mutual fund owns or controls shares of stock.

(c) For purposes of the Code of Ethics, the parties to a domestic partnership shall be treated as the equivalent of spouses, and the domestic partnership shall be treated as the equivalent of marriage.

(d) For purposes of the Code of Ethics, an officer shall be deemed to continue to have an interest in a business entity for a period of one (1) year after the officer's actual interest has ceased.

Section 5-9. Code of Ethics - Standards.

(a) The following requirements shall constitute reasonable standards and guidelines for the ethical conduct of officers, public body members, and employees.

(b) No officer, public body member, or employee who has the power or duty to perform, or has any influence over, an official action related to a contract, shall:

(1) Have or acquire an interest in a contract between a business entity and the City, unless the City's procedures applicable to the solicitation and acceptance of such contract are followed and unless the officer, public body

member, or employee has complied with the provisions of Section 5-10;

(2) Have an interest in any business entity which is a party to the contract with the City, unless the officer, public body member, or employee has complied with the provisions of Section 5-10;

(3) Represent or appear before the City Council, any public body, or any other officer, public body member, or employee, on behalf of any business entity which is a party to the contract with the City;

(4) Have solicited or accepted present or future employment with any business entity which is a party to a contract with the City, if the offer or acceptance of such employment is related to or results from any official action performed by the officer, public body member, or employee with regard to the contract; or

(5) Solicit, accept, or be granted a present or future gift, favor, discount, service or thing of value from or for any person involved in the contract. Nothing in this paragraph shall prohibit any officer, public body member, or employee from accepting an occasional nonpecuniary gift of fifteen dollars (\$15.00) or less in value, or from accepting an award, publicly presented, in recognition of public service. However, no officer, public body member, or employee shall accept a nonpecuniary gift of any value if the gift is or may be in any way associated with a contract that is or may be one for which the officer, public body member, or employee has the power or duty to perform an official action.

(c) No officer, public body member, or employee shall be directly responsible for the hiring, appointment, retention, or supervision of, or influence or attempt to influence the hiring, appointment, supervision, or retention by the City of, any relative of the officer, public body member, or employee.

(d) No officer, public body member, or employee shall influence or attempt to influence the compensation, benefits, or other terms and conditions of City office or City employment applicable to a relative of the officer, public body member, or employee.

(e) No relative of an officer, public body member, or employee shall be hired as an employee unless the City's personnel procedures applicable to such employment have been followed.

(f) No officer, public body member, or employee shall use for personal or private gain, or for any other personal or private purposes, any information which is not available to the public and which is obtained by reason of his or her position with the City, or disclose any such information except as required by law or for City purposes.

(g) No employee shall engage in or accept any employment or service, other than employment by the City, if such employment or service reasonably would tend to

impair the employee's independence of judgment in the performance of the employee's duties. This restriction shall not be construed to prohibit any other restrictions or prohibitions on outside employment applicable to an employee.

(h) Neither the City Manager, nor any employee who is the head of a City department, shall be appointed to serve as a member of a public body.

(i) No officer, public body member, or employee shall request or direct the use of an employee's working time for the City, and no employee shall use his or her working time for the City, for personal or private purposes.

(j) No officer, public body member, or employee shall request, direct, or permit the personal or private use of any City vehicle or City equipment except in the same manner and under the same circumstances applicable to any person who is not an officer, public body member, or employee, unless such use will substantially benefit the City.

(k) No officer, public body member, or employee shall request, or grant to any person, any special consideration, treatment, or advantage beyond that which is available to every other person in similar circumstances or need.

(l) No officer, public body member, or employee shall, at any time within two (2) years after termination from the City:

(1) Appear on behalf of the officer's, public body member's, or employee's interest, or on behalf of the interest of any other person, before the City Council, any public body, or department of the City, in relation to any matter concerning which the officer, public body member, or employee performed an official act; or

(2) Represent the interest of the officer, public body member, or employee, or of any other person, in any other matter before the City Council, any public body, or department of the City, without disclosing to the City the officer's, public body member's, or employee's prior relationship to the City and present relationship to the interest.

(m) Except as provided in Subsection (n), no officer, public body member, or employee shall appear before the City Council or any public body on behalf of any business entity.

(n) A member of a public body may appear on behalf of a business entity before the City Council or before a public body other than the public body of which he or she is a member, so long as the appearance does not concern any matter that has or may come before the public body of which he or she is a member.

(o) Nothing in the Code of Ethics shall preclude an officer, public body member, or employee from appearing before the City Council, any public body, or any other

officer, public body member, or employee on behalf of any person which is not a business entity, so long as the appearance does not concern the officer's, public body member's, or employee's interest.

(p) No officer or public body member shall offer or promise to give his or her vote or influence in favor of or against any proposed official action in consideration or upon condition that any other officer, public body member, will promise or assent to give his or her vote or influence in favor of or against any other proposed official action.

(q) No officer shall become a City employee at any time during the term of office, or for two (2) years after leaving office.

(r) No officer shall acquire or seek to acquire any real estate or interest therein if the officer knows, or reasonably should know, that the Council is evaluating, proposing, or pursuing the acquisition of such real estate or interest therein. The officer's knowledge shall be presumed if the minutes or other record of any Council meeting or study session reflect any discussion of the same, or if the officer was present at any executive session at which the same was discussed. The prohibitions of this subsection shall continue to apply until after the Council has abandoned any effort to acquire such real estate or interest therein, and such abandonment has been reflected in the minutes or other record of a Council meeting.

Section 5-10. Code of Ethics - Disclosure of Interest; Non-Participation in Discussion or Action.

(a) The procedures of this section shall be followed by:

(1) Each officer who has an interest in, or whose interest would be affected by, any proposed official action before the City Council; and

(2) Each public body member who has an interest in, or whose interest would be affected by, any proposed official action before the public body of which the person is a member.

(b) Each officer or public body member, when required to follow this section, shall:

(1) Immediately and publicly disclose the nature and extent of the interest;

(2) Not participate in any discussion or decision concerning the proposed action; and

(3) Leave the room where the discussion or decision is taking place during the time the proposed action is being discussed and the decision is being made.

(c) With respect to any official action in which an officer, public body member, or employee has an interest, the officer, public body member, or employee shall not:

(1) Participate in any discussion with the City Council, any public body, or any other employee, concerning such

an action to be taken by the City Council, the public body, or the other employee; or

(2) Attempt to influence publicly or privately, the City Council, any public body, or any other employee, in connection with an official action described in Paragraph (1).

(d) With respect to any official action that would affect the interest of a competitor of a business entity in which an officer, public body member, or employee has an interest, the officer, public body member, or employee shall not:

(1) Participate in any discussion with the City Council, any public body, or any other employee, concerning such an action to be taken by the City Council, the public body, or the other employee; or

(2) Attempt to influence publicly or privately, the City Council, any public body, or any other employee, in connection with an official action described in Paragraph (1).

Section 5-11. Code of Ethics - Filing of Financial Disclosure Statement.

(a) Within three (3) working days after a person has filed a nomination petition or write-in affidavit of intent for the office of Mayor or Councilmember, and within five (5) working days after a person has been appointed to fill a vacancy in such office, the person shall complete, sign, and file with the City Clerk a disclosure statement that contains:

(1) The person's employer and occupation and the nature of any income in excess of one thousand dollars (\$1,000.00) per year per source, including without limitation, capital gains whether or not taxable, dividends, interest, wages, salaries, rents, and profits;

(2) The name, location, and nature of activities of any business entity with holdings of real or personal property or with business dealings in Boulder County, in which the person has any interest, and the nature of the interest;

(3) The location of any real property within Boulder County in which the person has an interest or, if the person has a controlling interest in an entity or enterprise disclosed pursuant to Paragraph (2), in which the controlled entity or enterprise has any interest and the nature of such interest;

(4) A sworn or verified statement signed by the person, under penalty of perjury, stating that to the best of the person's knowledge, information, and belief, the person has provided, accurately and completely, all of the information required by the disclosure form in compliance with the Code of Ethics. The statement shall contain:

(A) An acknowledgment that, for the purposes of Sections 5-9 and 5-10, the person is deemed to have an interest in his or her own financial affairs, and in that of the person's spouse and other relatives as specified in the Code of Ethics; and

(B) An acknowledgment that, for the purposes of Sections 5-9 and 5-10, the person understands that he or she must disclose such an interest pursuant to Section 5-10 and comply with the non-participation provisions thereof, and that it is a violation of the Code of Ethics to fail to file the statement within the time required herein; and

(C) Such additional information as the person making the disclosure desires.

(b) Except as specifically provided herein, the form and content of the disclosure statement referred to in Subsection (a) shall be established by resolution of the City Council.

(c) Notwithstanding any other provision of this section, no candidate, officer, or public body member shall be required to disclose any confidential relationship protected by law.

(d) By no later than September 10 of each year, each officer shall file an amended disclosure statement with the City Clerk, or notify the City Clerk in writing that the officer has no change of financial condition regarding the disclosed items since the previously filed disclosure statement.

Section 5-12. Code of Ethics - Enforcement.

(a) The provisions of Sections 5-9 through 5-11 shall be enforced as follows:

(1) The City Prosecutor shall have the primary responsibility for administration of said provisions.

(2) Any person who believes that an officer, public body member, or employee has violated any of said provisions and wishes to initiate proceedings on such alleged violations shall file a written complaint with the City Prosecutor. The complaint shall state in detail the facts of the alleged violation, shall specify the section or sections of the Code of Ethics alleged to have been violated, and shall contain a sworn or verified statement signed by the complainant and stating under penalty of perjury that the information in the complaint is true and accurate, and that the complaint is filed in good faith and not out of malice or any other improper motive or purpose. Any complaint which does not contain such a signed statement shall be returned forthwith to the complainant without action.

(3) If the complaint is made against an officer or public body member, within ten (10) days after receipt of the complaint the City Prosecutor shall forward a copy of the complaint to the officer or public body member against whom the complaint is made, and to an advisory judge referred to in Section 5-13. The City Prosecutor shall request the advisory judge to appoint a qualified disinterested attorney to serve as special prosecutor. If, within ten (10) days after the request, the advisory judge has not appointed a special prosecutor, the City's municipal judge shall appoint a qualified disinterested attorney to serve as special prosecutor. The reasonable expenses and fees of an advisory judge making such an appointment and

of the attorney serving as special prosecutor shall be paid by the City. The attorney recommended or appointed pursuant to this paragraph shall serve as special prosecutor for purposes of investigation and action on the complaint, and shall take such actions concerning the complaint as are consistent with the Code of Ethics, the Colorado municipal court rules of procedure, and the prosecutor's ethical responsibilities. Before completing the investigation, the special prosecutor shall provide the officer or public body member against whom the complaint is made an opportunity to provide information concerning the complaint.

(4) If the complaint is against an employee, the City Prosecutor shall investigate the complaint and shall take such actions concerning the complaint as are consistent with the Code of Ethics, the Colorado municipal court rules of procedure, and the prosecutor's ethical responsibilities. Within ten (10) days after receipt of the complaint the City Prosecutor shall forward a copy of the complaint to the employee against whom the complaint is made and, before completing the investigation, shall provide the employee an opportunity to provide information concerning the complaint.

(b) A person commits false reporting of a complaint under this section if:

(1) The person makes a complaint of a violation under Sections 5-9 through 5-11 or knowingly causes the transmission of a complaint to the City Prosecutor of such a violation when the person knows that the violation did not occur; or

(2) The person makes a complaint or knowingly causes the transmission of a complaint to the City Prosecutor pretending to furnish information relating to a violation of Sections 5-9 through 5-11 when the person knows that he or she has no such information or knows that the information is false.

(c) A person who is convicted of false reporting of a complaint under this section shall be punished as provided in Section 16-7 of this Charter.

Section 5-13. Code of Ethics - Advisory Opinions.

(a) The municipal judge shall maintain the consent of one (1) or more judges of municipalities other than the City, to provide advisory opinions with respect to the applicability of Sections 5-9 through 5-11. The names of such advisory judges shall be provided to the City Council, the City Manager, and the City Attorney. The reasonable expenses and fees of an advisory judge providing such an opinion shall be paid by the City.

(b) If any officer, public body member, or employee is uncertain as to the applicability of Sections 5-9 through 5-11 to a particular situation, or as to the definition of terms used in said sections, the officer, public body member, or employee may apply in writing to the City Council, Mayor,

or City Manager for an opinion from an advisory judge pursuant to this section, and the City Council, Mayor, or City Manager may submit an application to the advisory judge for procurement of an opinion. Any officer or public body member may apply directly to an advisory judge for an opinion. The application shall state in detail the applicable facts and the section or sections of the Code of Ethics concerning which the opinion is requested.

(c) Any person who requests and acts in accordance with an advisory opinion issued pursuant to this section shall not be subject to any penalties for such action under the Code of Ethics, unless material facts were omitted or misstated in the request for the advisory opinion.

(d) An opinion rendered by an advisory judge pursuant to this section shall be disclosed to the public by posting, unless the advisory judge who issued the opinion determines it in the best interest of the City to delay such posting, in which case the opinion shall be posted as soon as the judge determines that the best interest of the City will no longer be harmed by public disclosure of the opinion.

Section 5-14. Code of Ethics - Violations - Penalties.

An officer, public body member, or employee who is convicted of a violation of any of the provisions of Sections 5-9 through 5-11 shall be punished as provided in Section 16-7 of this Charter.

Section 5-15. Code of Ethics - Violations - Voiding of Contract.

Any contract which was the subject of any official action of the City in which there was or is an interest prohibited by the Code of Ethics shall be voidable at the option of the City, if legally permitted. Where the City Attorney determines that the public interest may best be served by not voiding such contract, it may be enforced and an action or proceeding may be brought against any officer, public body member, or employee in violation of the provisions of the Code of Ethics for damages in an amount not to exceed twice the damages suffered by the City or twice the profit or gain realized by the officer, public body member, or employee, whichever is greater.

Section 5-16. Code of Ethics - Violations - Injunction.

The City Prosecutor shall have the power, where a violation of the provisions of the Code of Ethics is threatened or has occurred, to bring a civil action or proceeding at law or in equity for a judgment enjoining any violation of the provisions of the Code of Ethics.

Section 5-17. Code of Ethics - Distribution.

The City Clerk shall cause a copy of the Code of Ethics, and any forms required for compliance with the Code of Ethics, to be distributed to each officer, public body member, and employee of the City within twenty (20) days after the adoption of the Charter, and to each officer, public

	<p>body member, and employee elected, appointed, or hired thereafter, before entering into any duties with the City, and to each candidate for elective office at the time the candidate obtains a nomination petition. In addition, the City Clerk shall cause a copy of any amendment to the Code of Ethics to be distributed to each officer, public body member, and employee of the City within twenty (20) days after the enactment of the amendment.</p>
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